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Madison, Wisconsin: The State Historical Society of Wisconsin,  
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THE DOCUMENTARY HISTORY OF THE  
RATIFICATION OF THE CONSTITUTION

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Volume IX

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Ratification of the Constitution  
by the States

V I R G I N I A

[2]

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Editors

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

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

A R T I C L E I

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

*Sec. 2.* The House of Representatives shall be composed of members chosen every second year by the people of the several states, and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature.

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

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

THROUGHOUT the Revolutionary era, Virginia provided America with much of its intellectual and political leadership. That leadership, however, was sorely divided over the fate of the Constitution. The superb debate that ensued in the Old Dominion marked the climax of the struggle for ratification. What occurred in Virginia—the tenth state to ratify the Constitution—was to loom large in the history of the new nation.

This dramatic confrontation among some of the most influential political leaders of the age was enhanced by the debates that had taken place in the other states and that circulated in Virginia's newspapers. The tension was heightened by the awareness that Virginia's decision was critical to the preservation of the Union: had it rejected the Constitution, neighboring North Carolina probably would have followed its lead, thereby isolating South Carolina and Georgia from the other states that had adopted the Constitution. Virginia's rejection would have ensured a similar response from the New York Convention (meeting at about the same time as the Virginia Convention), which would have sundered the Union further. These factors made the debate in Virginia complex and intriguing, as the formerly united patriots fought over the nature of government and the preservation of liberty. The end result of this debate was a remarkable exegesis of the Constitution.

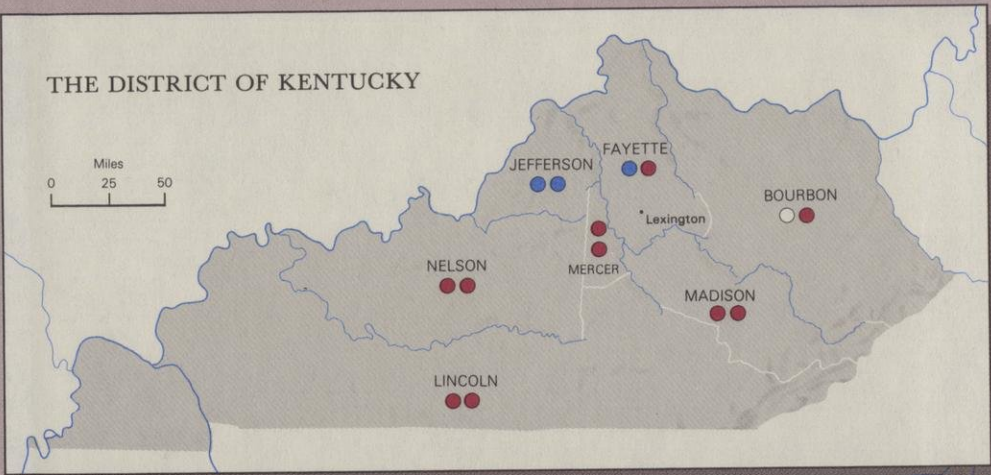
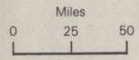
This second Virginia volume contains the private and public record of the debate as captured in letters, newspapers, and the debates in the Convention. Private letters and diaries discuss prospects for ratification in Virginia and shed new light on the elections for Convention delegates. These are complemented by election returns, poll lists, and petitions protesting several elections. Taken together, these sources offer a new opportunity to understand the electoral process in the late eighteenth century.

Other letters reveal the extraordinary effort at cooperation between Antifederalists in New York and Virginia. Newspapers in Virginia printed numerous articles, including three essays by "Cassius" responding to Richard Henry Lee's attack on the Constitution and his proposed bill of rights. Also published in the newspapers are a fascinating revision of the Constitution offered by "A Society of Western Gentlemen" and thought-provoking essays by "A State Soldier" and "Peregrine." There are two notable pamphlets in this volume. The first is a thirty-six-page Federalist pamphlet by "A Native of Virginia," published in Petersburg; the second is a twenty-four-page Antifederalist pamphlet by James Monroe, who, dissatisfied with his own and the printer's performance, suppressed its publication.

This volume also contains the debates during the first nine days of the Virginia Convention. Recorded in shorthand by David Robertson and

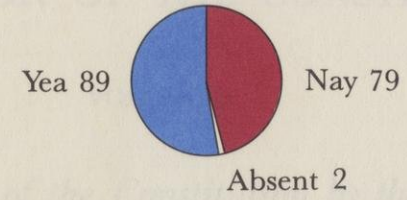
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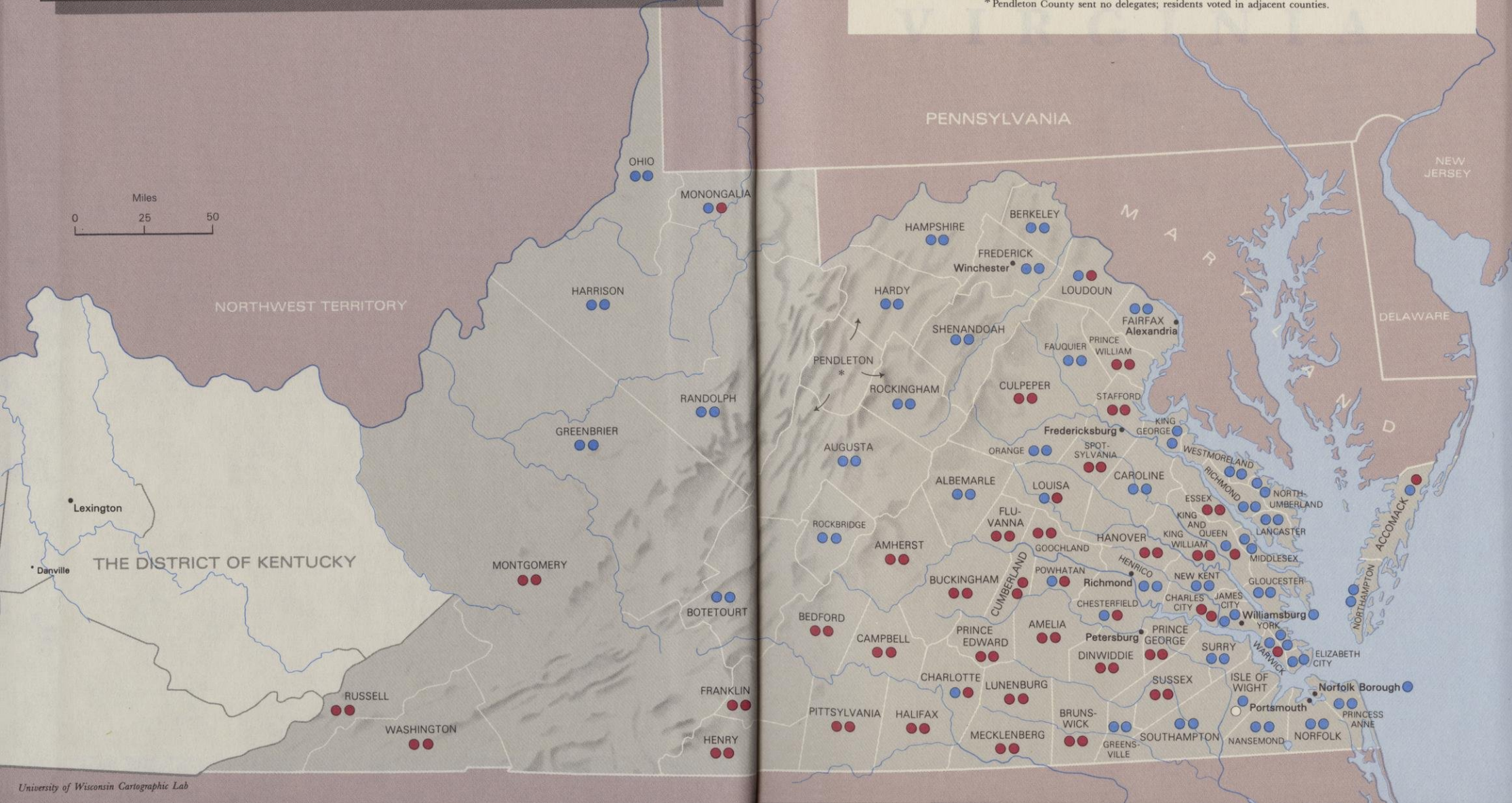
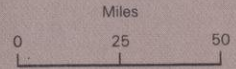


VIRGINIA RATIFIES THE CONSTITUTION

Vote in Convention, June 25, 1788



\* Pendleton County sent no delegates; residents voted in adjacent counties.





THE DOCUMENTARY HISTORY OF THE  
RATIFICATION OF THE CONSTITUTION

VOLUME IX

*Ratification of the Constitution by the States*

**V I R G I N I A**

[2]



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RATIFICATION OF THE CONSTITUTION

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Volume IX

Ratification of the Constitution  
by the States

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Editors

JOHN P. KAMINSKI

GASPARE J. SALADINO

Senior Associate Editor

RICHARD LEFFLER

Associate Editor

CHARLES H. SCHOENLEBER

Assistant Editor

MARYBETH CARLSON

Editorial Assistants

CHARLES D. HAGERMANN

MARGARET C. LEEDS

---

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1 9 9 0



*The Documentary History of the Ratification of the Constitution* is sponsored by the National Historical Publications and Records Commission and the University of Wisconsin-Madison. Preparation of this volume was made possible by grants from the National Historical Publications and Records Commission; the Program for Editions of the National Endowment for the Humanities, an independent federal agency; the Virginia Commission on the Bicentennial of the United States Constitution; the Lynde and Harry Bradley Foundation; the Evjue Foundation; the Oscar Rennebohm Foundation; and the Norman Bassett Foundation. Publication was made possible in part by a grant from the National Historical Publications and Records Commission.

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LIBRARY OF CONGRESS CATALOGING IN PUBLICATION DATA [REVISED]

Main entry under title:

The Documentary history of the ratification  
of the Constitution.

Editors for v. 9: John P. Kaminski, Gaspare J. Saladino.

CONTENTS: v. 1. Constitutional documents and records, 1776–1787.—v. 2. Ratification of the Constitution by the States: Pennsylvania.—v. 3. Ratification of the Constitution by the States: Delaware, New Jersey, Georgia, Connecticut.—v. 8. Ratification of the Constitution by the States: Virginia (1).—v. 9. Ratification of the Constitution by the States: Virginia (2).—v. 13. Commentaries on the Constitution, public and private (1).—v. 14. Commentaries on the Constitution, public and private (2).—v. 15. Commentaries on the Constitution, public and private (3).—v. 16. Commentaries on the Constitution, public and private (4).

1. United States—Constitutional history—Sources.

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

KF4502.D63      342'.73'029      75-14149  
ISBN 0-87020-258-8      347.30229 AACR2

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**HANDY BRUCE FANT**

**Tireless Researcher  
and  
Friend of Documentary Editors**

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## Acknowledgments

The editing of this volume has been supported principally by grants from the National Historical Publications and Records Commission, the National Endowment for the Humanities, and the Virginia Commission on the Bicentennial of the United States Constitution. Substantial financial aid was also provided by the Lynde and Harry Bradley Foundation, the Evjue Foundation, the Oscar Rennebohm Foundation, the Norman Bassett Foundation, and many of the colleagues, students, and friends of the late Merrill Jensen, the former editor of this project. Continuing financial support has also been received from Robert Blecker, Frank G. Burke, Frederick H. Campbell, Handy Bruce Fant, the Honorable Paul C. Gartzke, and Carol T. Toussaint.

We wish to extend our gratitude to the staff of the NHPRC, including Frank G. Burke, the former Executive Director; Richard A. Jacobs, present Executive Director; and Roger A. Bruns, Mary A. Giunta, Richard N. Sheldon, and Donald L. Singer. We are also grateful for assistance from David K. Nichols and Kathy Fuller of the NEH; Timothy G. O'Rourke and Richard Peterson of the Virginia Commission on the Bicentennial of the United States Constitution; Michael S. Joyce of the Bradley Foundation; William H. Young of the Rennebohm Foundation; and J. Reed Coleman of the Bassett Foundation.

A continuing debt of gratitude is owed to the administration, faculty, and staff of the University of Wisconsin-Madison, particularly, Donna E. Shalala, chancellor; John D. Wiley, dean of the Graduate School; E. David Cronon, former dean of the College of Letters and Science and his successor Donald W. Crawford; and John M. Cooper, Jr., and Charles L. Cohen, chairman and associate chairman of the History Department.

The staff of the State Historical Society of Wisconsin, our primary research library and our publisher, continues its kind cooperation and support. We would like to thank Director H. Nicholas Muller III, Associate Director Robert B. Thomasgard, Jr., Craig Cramer, James P. Danky, Susan J. Dorst, Michael Edmonds, Gerald R. Eggleston, James L. Hansen, R. David Myers, Geraldine E. Strey, and Adam Young. The Memorial and Law libraries of the University of Wisconsin-Madison have also been most helpful, especially John A. Tedeschi and Elizabeth A. Breed of the Memorial Library and Cynthia L. May and Barbara J. Meyer of the Law Library. Linda J. Pike, formerly of the Lafayette Papers, and Gail Walter helped in translating some of the French-language correspondence; Frank M. Clover, Department of History, the University of Wisconsin-Madison, identified and translated

several Latin passages. Others who have provided assistance are James E. Mooney and Thomas J. Dunnings, Jr., of the New-York Historical Society; Jon Kukla of the Virginia State Library; Douglas E. Clanin of the Indiana Historical Society; James H. Hutson and Mary Wolfskill of the Library of Congress; and Frederic G. Cassidy, editor of *The Dictionary of American Regional English*.

Several institutions have given us permission to publish documents. We would like to express our thanks to them and to these staff members: Bernard R. Crystal, Butler Library, Columbia University; John B. Green III, Tryon Palace Restoration Complex; Daniel Meyer, the University of Chicago Library; and Anne B. Shepherd, Cincinnati Historical Society.

We would also like to acknowledge four former editorial assistants—Peter B. Knupfer, Daniel R. Modes, Mark H. Davis, and Cymbre G. Humphreys—who have worked with the project at various times. Finally, we again acknowledge the cartographic contributions of Onno Brouwer, director of the University of Wisconsin Cartographic Laboratory, and David W. DiBiase, who, with the assistance of Joseph R. Wilson, prepared the maps.

This book is dedicated to Handy Bruce Fant, who, for more than two decades, served the National Historical Publications and Records Commission and the historical community in his tireless search of the vast collections of the National Archives and the Library of Congress. His voluminous findings, stored in the legendary “Fant Notebooks,” have been used by scores of documentary editors and by those fortunate historians who discovered that a set of the notebooks was retained by the Manuscript Division of the Library of Congress. No single researcher has unearthed more treasures or has given more generously and unfailingly of his time and expertise.

## 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* (5 volumes),
- (4) *The Bill of Rights* (1 or 2 volumes).

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

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

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

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

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

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

The types of documents in the supplements are:

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

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

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

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

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

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

*Commentaries on the Constitution: Public and Private.*

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

*The Bill of Rights.*

The public and private debate on the Constitution continued in several states after ratification. It was centered on the issue of whether there should be amendments to the Constitution and the manner in which amendments should be proposed—by a second constitutional convention or by the new U.S. Congress. A bill of rights was proposed in the U.S. Congress on 8 June 1789. Twelve amendments were adopted on 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 dockets 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.

## General Ratification Chronology, 1786-1791

### 1786

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

### 1787

- |                 |   |
|-----------------|---|
| 6 January       | North Carolina elects delegates.                              |
| 17 January      | New Hampshire elects delegates.                               |
| 3 February      | Delaware elects delegates.                                    |
| 10 February     | Georgia elects delegates.                                     |
| 21 February     | Congress calls Constitutional Convention.                     |
| 22 February     | Massachusetts authorizes election of delegates.               |
| 28 February     | New York authorizes election of delegates.                    |
| 3 March         | Massachusetts elects delegates.                               |
| 6 March         | New York elects delegates.                                    |
| 8 March         | South Carolina elects delegates.                              |
| 14 March        | Rhode Island refuses to elect delegates.                      |
| 23 April-26 May | Maryland elects delegates.                                    |
| 5 May           | Rhode Island again refuses to elect delegates.                |
| 14 May          | Convention meets; quorum not present.                         |
| 14-17 May       | Connecticut elects delegates.                                 |
| 25 May          | Convention begins with quorum of seven states.                |
| 16 June         | Rhode Island again refuses to elect delegates.                |
| 27 June         | New Hampshire renews election of delegates.                   |
| 13 July         | Congress adopts Northwest Ordinance.                          |
| 6 August        | Committee of Detail submits draft constitution to Convention. |
| 12 September    | Committee of Style submits draft constitution to Convention.  |
| 17 September    | Constitution signed and Convention adjourns <i>sine die</i> . |
| 20 September    | Congress reads Constitution.                                  |
| 26-28 September | Congress debates Constitution.                                |
| 28 September    | Congress transmits Constitution to the states.                |
| 28-29 September | Pennsylvania calls state convention.                          |

17 October	Connecticut calls state convention.
25 October	Massachusetts calls state convention.
26 October	Georgia calls state convention.
31 October	Virginia calls state convention.
1 November	New Jersey calls state convention.
6 November	Pennsylvania elects delegates to state convention.
10 November	Delaware calls state convention.
12 November	Connecticut elects delegates to state convention.
19 November-	Massachusetts elects delegates to state convention.
7 January 1788	
20 November-	Pennsylvania Convention.
15 December	
26 November	Delaware elects delegates to state convention.
27 November-	Maryland calls state convention.
1 December	
27 November-	New Jersey elects delegates to state convention.
1 December	
3-7 December	Delaware Convention.
4-5 December	Georgia elects delegates to state convention.
6 December	North Carolina calls state convention.
7 December	Delaware Convention ratifies Constitution, 30 to 0.
11-20 December	New Jersey Convention.
12 December	Pennsylvania Convention ratifies Constitution, 46 to 23.
14 December	New Hampshire calls state convention.
18 December	New Jersey Convention ratifies Constitution, 38 to 0.
25 December-	Georgia Convention.
5 January 1788	
31 December	Georgia Convention ratifies Constitution, 26 to 0.
31 December-	New Hampshire elects delegates to state convention.
12 February 1788	
<b>1788</b>	
3-9 January	Connecticut Convention.
9 January	Connecticut Convention ratifies Constitution, 128 to 40.
9 January-	Massachusetts Convention.
7 February	
19 January	South Carolina calls state convention.
1 February	New York calls state convention.
6 February	Massachusetts Convention ratifies Constitution, 187 to 168, and proposes amendments.
13-22 February	New Hampshire Convention: first session.
1 March	Rhode Island calls statewide referendum on Constitution.
3-27 March	Virginia elects delegates to state convention.
24 March	Rhode Island referendum: voters reject Constitution, 2,711 to 239.
28-29 March	North Carolina elects delegates to state convention.
7 April	Maryland elects delegates to state convention.
11-12 April	South Carolina elects delegates to state convention.
21-29 April	Maryland Convention.
26 April	Maryland Convention ratifies Constitution, 63 to 11.
29 April-3 May	New York elects delegates to state convention.
12-24 May	South Carolina Convention.



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

## 1789

- 4 March First Federal Congress convenes.
- 1 April House of Representatives attains quorum.
- 6 April Senate attains quorum.
- 30 April George Washington inaugurated first President.
- 8 June James Madison proposes Bill of Rights in Congress.
- 21-22 August North Carolina elects delegates to second state convention.
- 25 September Congress adopts twelve amendments to Constitution to be submitted to the states.
- 16-23 November Second North Carolina Convention.
- 21 November Second North Carolina Convention ratifies Constitution, 194 to 77, and proposes amendments.

## 1790

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

## 1791

- 15 December Bill of Rights adopted.

# Calendar for the Years 1787-1788

1787

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

1788

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

## Symbols

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

#### Manuscripts

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

#### Manuscript Depositories

DLC	Library of Congress
DNA	National Archives
MHi	Massachusetts Historical Society
NHi	New-York Historical Society
NN	New York Public Library
PHi	Historical Society of Pennsylvania
Vi	Virginia State Library
ViHi	Virginia Historical Society
ViU	University of Virginia
ViW	Earl Gregg Swem Library, College of William and Mary

#### Short Titles

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

- Burrow, *Reports* Sir James Burrow, *Reports of Cases Argued and Adjudged in the Court of King's Bench, During the Time Lord Mansfield Presided in that Court . . .* [1756–1772] (5th ed., 5 vols., London, 1812). These five volumes, originally published between 1766 and 1780, are reprinted in volumes XCVII and XCVIII of *The English Reports* [1220–1865] (178 vols., Edinburgh and London, 1900–1932).
- Debates* *Debates and Other Proceedings of the Convention of Virginia . . .* (3 vols., Petersburg, 1788, 1789).
- Evans Charles Evans, *American Bibliography* (12 vols., Chicago, 1903–1934).
- Farrand Max Farrand, ed., *The Records of the Federal Convention* (3rd ed., 3 vols., New Haven, 1927).
- Ferguson, *Morris* E. James Ferguson et al., eds., *The Papers of Robert Morris, 1781–1784* (Pittsburgh, 1973–).
- Fitzpatrick John C. Fitzpatrick, ed., *The Writings of George Washington . . .* (39 vols., Washington, D.C., 1931–1944).
- Hamilton, *Monroe* Stanislaus Murray Hamilton, ed., *The Writings of James Monroe . . .* (7 vols., New York, 1898–1903).
- Hening William Waller Hening, ed., *The Statutes at Large; Being A Collection of All the Laws of Virginia, from the First Session of the Legislature, in the Year 1619* (13 vols., Richmond and Philadelphia, 1809–1823).
- House Journal* *Journal of the House of Delegates of the Commonwealth of Virginia . . .*
- Hutchinson, *Madison* William T. Hutchinson et al., eds., *The Papers of James Madison, Volumes I–VII* (Chicago, 1962–1971).
- JCC Worthington C. Ford et al., eds., *Journals of the Continental Congress, 1774–1789 . . .* (34 vols., Washington, D.C., 1904–1937).
- Johnson, *Marshall* Herbert A. Johnson et al., eds., *The Papers of John Marshall* (Chapel Hill, N.C., 1974–).
- LMCC Edmund C. Burnett, ed., *Letters of Members of the Continental Congress* (8 vols., Washington, D.C., 1921–1936).

- Montesquieu, *Spirit of Laws* Charles, Baron de Montesquieu, *The Spirit of Laws* (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., *The Papers of James Madison*, Volumes VIII– (Chicago and Charlottesville, 1973–).
- Rutland, *Mason* Robert A. Rutland, ed., *The Papers of George Mason, 1725–1792* (3 vols., Chapel Hill, N.C., 1970).
- Syrett Harold C. Syrett et al., eds., *The Papers of Alexander Hamilton* (27 vols., New York, 1961–1987).
- Thorpe Francis N. Thorpe, ed., *The Federal and State Constitutions . . .* (7 vols., Washington, D.C., 1909).
- Washington Diaries* Donald Jackson and Dorothy Twohig, eds., *The Diaries of George Washington* (6 vols., Charlottesville, 1976–1979).
- Watson, *Reign of George III* J. Steven Watson, *The Reign of George III, 1760–1815* (Oxford, Eng., 1960).

#### Cross-references to Volumes of

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

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

## Virginia Chronology, 1776-1791

### 1776

- 15 May Revolutionary convention instructs delegates in Congress to call for independence, foreign alliances, and a form of confederation. Also appoints a committee to prepare a declaration of rights and a form of government for Virginia.
- 7 June Richard Henry Lee moves in Congress that colonies "are, and of right ought to be, free and independent States," that foreign alliances should be entered into, and that a plan of confederation be prepared.
- 12 June Virginia Declaration of Rights adopted.
- 29 June Virginia Constitution adopted; Patrick Henry elected governor.
- 2 July Congress declares the colonies independent.
- 4 July Congress adopts Declaration of Independence.

### 1777

- 15 November Congress adopts Articles of Confederation and sends them to states for approval.
- 16 December Legislature ratifies Articles of Confederation.

### 1781

- 2 January Legislature cedes Northwest Territory to Congress.
- 14 June Legislature approves Impost of 1781.
- 19 October British forces surrender at Yorktown.
- 17 December Legislature suspends approval of Impost of 1781 until approved by other states.

### 1782

- 7 December Legislature repeals its approval of Impost of 1781.

### 1783

- 13 September Congress requests a second cession of Northwest Territory from Virginia.
- 12 December Legislature authorizes Congress to retaliate against British trade restrictions in West Indies.
- 18 December Legislature approves Impost of 1783.
- 20 December Legislature cedes Northwest Territory to Congress.

## 1784

- 1 March Congress accepts Virginia's cession of Northwest Territory.  
 26 June Legislature approves amendment to Articles of Confederation to share expenses according to population.  
 28 June Legislature appoints commissioners to meet with Maryland commissioners to discuss commercial problems over the jurisdiction and navigation of the Potomac River.  
 29 June Legislature approves amendment to Articles of Confederation to grant Congress power to regulate commerce for fifteen years.  
 19 November Legislature instructs delegates to Congress to secure navigation of Mississippi River.  
 15 December Congress officially informed that Spain has closed navigation of Mississippi River to Americans.

## 1785

- 25-28 March Mount Vernon Conference.

## 1786

- 21 January Legislature calls interstate meeting to consider granting Congress power to regulate trade and appoints Edmund Randolph, James Madison, Walter Jones, St. George Tucker, and Meriwether Smith as delegates.  
 3 August Congress receives Secretary for Foreign Affairs John Jay's request to forbear navigation of Mississippi River for twenty-five years so he could conclude commercial treaty with Spain.  
 29 August Congress votes seven states to five to approve Jay's request. Virginia votes with minority.  
 11-14 September Annapolis Convention meets and calls for a convention to meet in Philadelphia on 14 May 1787.  
 1 November House of Delegates rejects petitions favoring paper money; it condemns paper money as "unjust, impolitic, and destructive."  
 17 November House of Delegates receives petition from inhabitants of Kentucky protesting rumored action by Congress giving up navigation of Mississippi River.  
 23 November Legislature authorizes appointment of delegates to Constitutional Convention.  
 4 December Legislature elects George Washington, Patrick Henry, Edmund Randolph, John Blair, James Madison, George Mason, and George Wythe as delegates to Constitutional Convention.  
 7 December Legislature instructs its delegates to Congress to oppose any attempt by Congress to give up right to navigate Mississippi River.

## 1787

- 21 February Congress calls for Constitutional Convention to meet in Philadelphia on 14 May.  
 22 February Thomas Nelson, Jr., appointed delegate to Constitutional Convention in place of Patrick Henry, who declined to serve.

- 20 March Richard Henry Lee appointed delegate to Constitutional Convention in place of Thomas Nelson, Jr., who declined to serve.
- 5 April James McClurg appointed delegate to Constitutional Convention in place of Richard Henry Lee, who declined to serve.
- 5 May James Madison arrives in Philadelphia.
- 13 May George Washington arrives in Philadelphia.
- 14 May Constitutional Convention meets, but lacks quorum.
- 17 May George Mason, the final Virginia delegate, arrives in Philadelphia.
- 25 May Convention attains quorum.
- 29 May Virginia Resolutions presented to Convention.
- 19 June Committee of the Whole adopts and reports amended Virginia Resolutions to Convention.
- 17 September Constitution signed by all delegates present except George Mason, Edmund Randolph, and Elbridge Gerry; Convention adjourns *sine die*.
- 26 September First printing of Constitution in Virginia.
- 28 September Alexandria town meeting approves Constitution.
- 28 September Berkeley County meeting approves Constitution.
- 2 October Fairfax County meeting calls for a state convention to consider Constitution.
- 6 October Williamsburg meeting calls for a convention to consider Constitution.
- 7 October George Mason sends a copy of his objections to Constitution to George Washington.
- 15–16 October Legislature convenes in Richmond. House of Delegates reads Constitution, refers it for consideration on 25 October, and orders 5,000 copies printed for distribution.
- 16 October Richard Henry Lee writes to Edmund Randolph enclosing his proposed amendments to Constitution.
- 20 October Fredericksburg meeting calls for a convention to consider Constitution.
- 22 October Frederick County meeting calls for convention to consider Constitution.
- 22 October Henrico County meeting approves Constitution.
- 24 October Petersburg meeting calls for convention to consider Constitution.
- 25–31 October Legislature debates and calls state convention.
- 3 November House of Delegates condemns paper money as “ruinous to Trade and Commerce, and highly injurious” to people.
- 12 November House of Delegates adopts resolutions asserting the God-given right of Virginians to navigate Mississippi River.
- 14 November Governor Randolph transmits a copy of the resolutions calling Virginia’s convention to other states.
- 16 November Winchester *Virginia Gazette* prints Richard Henry Lee’s proposed amendments to Constitution.
- 21 November–13 December Union Society of Richmond debates Constitution, voting 128 to 15 in favor of it.
- 22 November *Virginia Journal* prints George Mason’s objections to Constitution.
- 23 November Winchester *Virginia Gazette* prints George Mason’s objections to Constitution.



- 30 November-  
12 December  
1 December  
6 December  
12 December  
26-27 December  
27 December
- Legislature debates and passes act to pay state convention delegates.  
Legislature passes act to allow tobacco to be used for payment of taxes.  
Richard Henry Lee's amendments and 16 October letter to Edmund Randolph printed in Petersburg *Virginia Gazette*.  
Legislature passes act to repeal laws interfering with collection of British debts that are contrary to Treaty of Peace of 1783, but suspends act until Great Britain complies with the treaty.  
Legislature instructs Governor Randolph to forward to the states copies of 12 December act to pay convention delegates.  
Randolph's reasons for not signing the Constitution are printed as a pamphlet in Richmond by this date.

## 1788

- 23 February-  
17 May  
3-27 March  
24 March  
2 April  
2 April  
2-27 June  
4 June  
25 June  
26 June  
27 June  
14 July  
8 November  
20 November
- Political Club of Danville, Ky., debates Constitution.  
Elections for delegates to Virginia Convention.  
James Madison addresses voters and is elected Orange County delegate to Virginia Convention.  
Volume I of *The Federalist* offered for sale in Norfolk (23 April in Richmond).  
Winchester *Virginia Centinel* begins publication.  
Virginia Convention meets in Richmond.  
Volume II of *The Federalist* is offered for sale in Norfolk (11 June in Richmond).  
Virginia Convention rejects previous amendments to Constitution, 88 to 80, and then ratifies Constitution, 89 to 79.  
President of Convention signs engrossed Form of Ratification, which Convention orders sent to Congress. Retained Form signed next day.  
Convention recommends Declaration of Rights and amendments to Constitution and orders them sent to Congress and states.  
Virginia Form of Ratification and proposed amendments received by Congress.  
Legislature elects William Grayson and Richard Henry Lee as U.S. Senators.  
Legislature adopts resolutions asking first federal Congress for a second constitutional convention to consider amendments to Constitution.

## 1789

- 2 February  
8 June  
25 September
- Virginia elects ten U.S. Representatives.  
James Madison proposes Bill of Rights in Congress.  
Congress approves 12 amendments to Constitution to be submitted to states.

## 1791

- 15 December
- Virginia becomes eleventh state to ratify Bill of Rights, putting it into effect.

# Officers of the Commonwealth of Virginia 1787-1788

## **Governor**

Edmund Randolph

## **Council of State**

Beverley Randolph (Lt. Governor)  
Carter Braxton  
Joseph Jones  
James McClurg  
Bolling Stark  
James Wood  
Miles Selden (resigned 31 March 1788)  
Sampson Mathews (resigned, 7 April 1788)  
William Heth (first attended 2 June 1788)

## **Treasurer**

Jaquelin Ambler

## **Auditor of Public Accounts**

John Pendleton

## **Receiver General of Continental Taxes**

John Hopkins

## **Attorney General**

James Innes

## **Solicitor General**

Leighton Wood

## **General Court**

Paul Carrington (Chief Justice)  
Peter Lyons  
James Mercer  
William Fleming  
Henry Tazewell  
*Elected 1788*  
Richard Parker  
Joseph Prentis  
St. George Tucker  
Edmund Winston

## **High Court of Chancery**

Edmund Pendleton (President)  
George Wythe  
John Blair

## **Court of Admiralty**

Richard Cary  
James Henry  
John Tyler

## **Annapolis Convention**

\* Did not attend

James Madison  
Edmund Randolph  
St. George Tucker  
Walter Jones\*  
George Mason\*  
William Ronald\*  
David Ross\*  
Meriwether Smith\*

## **Delegates to Congress**

*Elected 7 November 1786*

Edward Carrington  
William Grayson  
Joseph Jones (declined)  
Richard Henry Lee  
James Madison  
*Elected 23 October 1787*  
John Brown  
Edward Carrington  
Cyrus Griffin (President)  
Henry Lee  
James Madison

## **Confederation Board of Treasury**

Arthur Lee

## **Constitutional Convention**

John Blair  
James Madison  
George Mason  
James McClurg  
Edmund Randolph  
George Washington (President)  
George Wythe  
Patrick Henry (declined)  
Richard Henry Lee (declined)  
Thomas Nelson, Jr. (declined)

## **Minister to France**

Thomas Jefferson

## **Secretary to Thomas Jefferson**

William Short



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

**VIRGINIA**  
[2]



## II. THE ELECTION OF CONVENTION DELEGATES 3-27 March 1788

### Introduction

On 31 October 1787 the General Assembly passed resolutions calling for a state convention to consider the Constitution. Voters eligible to elect representatives to the legislature were to select convention delegates in March "on the first day of the court to be held for each county, city, or corporation" (RCS:Va., 118). In March, 170 delegates were elected, two from each of the state's eighty-four counties and one each from Williamsburg and Norfolk Borough.

In setting qualifications, the General Assembly exempted convention delegates from "those legal and constitutional restrictions" that applied to legislators—local and state officials, and delegates to Congress were eligible to sit in the Convention. Given the waiver, congressmen James Madison and Henry Lee, Governor Edmund Randolph, Attorney General James Innes, Chief Justice Paul Carrington, Court of Admiralty Judge John Tyler, the judges of the High Court of Chancery (Edmund Pendleton, George Wythe, and John Blair), and at least ten county clerks (including Humphrey Brooke—clerk of Fauquier County and clerk of the Senate) were elected; while Essex County sheriff John Edmondson, also eligible to seek a convention seat, was defeated.

Furthermore, a convention delegate did not have to be an actual resident or freeholder of the county that he represented. Archibald Stuart, for example, mentioned the possibility that James Madison could ensure his election by standing for election in Norfolk Borough, rather than in his home county of Orange (2 December, RCS:Va., 196), while Arthur Lee proposed that his brother Richard Henry Lee stand for Fauquier if prospects in his home county of Westmoreland were unfavorable (19 February, Westmoreland County Election, below). Arthur Lee also contemplated running in either Stafford or Prince William (*ibid.*). George Mason, unable to convince his fellow Fairfax voters to elect him, won a Convention seat from nearby Stafford.

Several prominent Virginians either chose not to stand for election or were not elected. Five of the seven delegates to the Constitutional Convention were elected—George Washington and James McClurg de-

clined to be candidates. Richard Henry Lee also decided not to run. Thomas Jefferson was in Paris as U.S. minister to France. Federalists Lieutenant Governor Beverley Randolph and Assemblyman Mayo Carington were defeated in Cumberland. John Beckley of Richmond, the clerk of the House of Delegates, unsuccessfully sought election in Greenbrier (Richard Adams to Thomas Adams, 2 April, Adams Papers, ViHi).

Election certificates exist for every county except Accomack, Bourbon, and Essex. The Augusta certificate is printed below, as an example. It is unique only in that it states that the successful candidates had been unanimously elected. (For photographic reproductions of all of the certificates, located in the Virginia State Library, see Mfm:Va.) Poll lists were found for Brunswick, Buckingham, Essex, and Princess Anne. Besides this meager official record, other documents—letters, diaries, reminiscences, and newspaper accounts—are extant for almost forty percent of the elections. They describe the events preceding, during, and after the elections. Vote totals were reported in newspapers for Amherst, Fauquier, Frederick, Henrico, Orange, and Shenandoah. Francis Taylor recorded the Orange results in his diary.

Lists of Convention delegates were printed in several Virginia newspapers. The names of the winning candidates from every county (except Accomack, Ohio, Randolph, and Russell) were printed at least once; some results were widely reprinted. Occasionally, an incorrect first name of a delegate was printed, or a delegate was listed under the wrong county. Incorrect results were reported for about a dozen counties. Horatio Gates was said to have won in Berkeley, George Lee Turberville and Robert Wormeley Carter in Richmond County, state senator John S. Wills in Isle of Wight, and Wilson M. Cary in Elizabeth City County. (For the newspaper reports of Convention delegates, see Mfm:Va.)

After the elections, speculation began on whether Federalists or Antifederalists would control the Convention. Several lists circulated both in manuscript and in print. See "General Commentaries on the Election of Convention Delegates," April–June 1788, which immediately follows the county and city election documents.

Election documents have been found for thirty-five counties and the city of Williamsburg. The headings for the counties, which are arranged alphabetically, include the dates of election, the names of the victorious candidates, and the 25 June vote of the Convention delegates on ratifying the Constitution ("Y" for yea and "N" for nay).

## Dates of Election for the Virginia Convention<sup>1</sup>

(\* *Results Contested*)

<p><b>MONDAY, 3 MARCH</b>                      Amherst                      Charlotte                      Franklin                      Gloucester                      Henrico                      Ohio                      Prince William                      Richmond County                      Williamsburg</p>	<p>Nansemond                      Northumberland                      Stafford                      Sussex<sup>2</sup>                      Washington<sup>3</sup></p>	<p><b>TUESDAY, 18 MARCH</b>                      Augusta                      Berkeley                      Bourbon                      Lincoln                      Russell<sup>5</sup></p>
<p><b>TUESDAY, 4 MARCH</b>                      Frederick                      Jefferson                      Montgomery                      Rockbridge                      Spotsylvania</p>	<p><b>TUESDAY, 11 MARCH</b>                      Botetourt                      Nelson                      Northampton                      Prince George</p>	<p><b>THURSDAY, 20 MARCH</b>                      Charles City                      Norfolk County                      Powhatan</p>
<p><b>THURSDAY, 6 MARCH</b>                      Campbell                      Fluvanna                      Hanover                      King George</p>	<p><b>WEDNESDAY, 12 MARCH</b>                      Fayette<sup>4</sup></p>	<p><b>MONDAY, 24 MARCH</b>                      Bedford                      Brunswick*                      Cumberland*                      Fauquier                      Halifax                      King William                      Middlesex                      Norfolk Borough                      Orange                      Randolph                      Rockingham</p>
<p><b>FRIDAY, 7 MARCH</b>                      Isle of Wight</p>	<p><b>THURSDAY, 13 MARCH</b>                      Albemarle                      Caroline                      Chesterfield                      Hampshire                      Lunenburg                      New Kent                      Princess Anne                      Southampton                      Warwick</p>	<p><b>TUESDAY, 25 MARCH</b>                      Accomack                      Greenbrier                      Madison                      Mercer                      Surrey                      Westmoreland</p>
<p><b>MONDAY, 10 MARCH</b>                      Buckingham                      Hardy                      Henry                      James City                      King and Queen                      Loudoun                      Louisa*                      Mecklenburg                      Monongalia</p>	<p><b>MONDAY, 17 MARCH</b>                      Culpeper                      Dinwiddie                      Essex                      Fairfax                      Goochland                      Harrison                      Lancaster                      Pittsylvania                      Prince Edward                      York</p>	<p><b>THURSDAY, 27 MARCH</b>                      Amelia                      Elizabeth City                      Greenville                      Shenandoah</p>



1. Pursuant to the General Assembly's resolutions calling the state Convention, eligible voters in Virginia's eighty-four counties and in the city of Williamsburg and the borough of Norfolk met on their respective court days in March and elected 170 delegates. Certificates indicating the date of election exist for most counties. Certificates are not extant for Accomack, Bourbon, and Essex. The court days for these counties—and thus presumably the election dates—are found in Hening, V, 60; XII, 90; and VII, 310, respectively. The Essex date is also found in that county's poll list for the election. The certificates for Caroline, Monongalia, and Sussex do not indicate the exact date of their elections. The court day for Monongalia was obtained from Hening, IX, 263. The Caroline election date was found in a letter from James Duncanson to James Maury, 11 March (see below).

2. Hening, VI, 384, gives the court day for Sussex as the second Monday (i.e., 10 March). *The Virginia Almanack, for . . . 1788* (Evans 20199), however, indicates that the third Thursday (i.e., 20 March) was the court day. The election certificate was signed by the sheriff on 6 April.

3. Both Hening, XII, 407, and the *Almanack* list the court day for Washington as the second Tuesday of each month (i.e., 11 March). The sheriff, however, states in the county's two extant election certificates that the election was held on 10 March, the second Monday. One of the certificates appears to have been first written for the "General Assembly" election on the "eighth day of April" 1788. The words "eighth," "April," and "Assembly" were crossed out and replaced with "tenth" day of "March" for the General "Convention." Thus, the election for the Assembly on 8 April (the second Tuesday of the month) coincides with the date assigned in Hening and in the *Almanack* for Washington's court day.

4. The election certificate indicates that the poll was held in Fayette on 12 March. Both the *Almanack*, and Hening, X, 315–16, give the court day as the second Tuesday (i.e., 11 March).

5. Hening, XII, 407, the *Almanack*, and an eyewitness account indicate that the election of Convention delegates in Russell was held on 18 March (Alexander Barnett to Governor Edmund Randolph, 22 March, William P. Palmer et al., eds., *Calendar of Virginia State Papers . . .* [11 vols., Richmond, 1875–1893], IV, 413). The election certificate, however, gives the date as "the twentyeth day of March."

### Accomack, 25 March

Edmund Custis (N)      George Parker (Y)

On 4 June the state Convention's Committee of Privileges and Elections reported that "no returns have been made" for delegates for Accomack County. Nathaniel Darby and Littleton Eyre informed the committee that they were in Accomack at the close of the election and that the sheriff had proclaimed Edmund Custis and George Parker "duly elected Delegates to represent the said county." The Convention accepted the committee's recommendation to seat Custis and Parker. (See Convention Debates, 4 June, IV below. No election certificate exists for Accomack.)

### Albemarle, 13 March

George Nicholas (Y)      Wilson Cary Nicholas (Y)

*Archibald Stuart to John Breckinridge*  
*Richmond, 6 November (excerpt)*<sup>1</sup>

. . . Yr Brother James tells me that you think of offering for the Convention, I am decidedly against it & hope you will lay aside all thoughts of ye matter<sup>2</sup>—

In ye first place it is doubtfull whether you would be elected in which case it would cheapen you by ye Genl Election in April,<sup>3</sup> & you may by giving up & making a merit of that with one of ye Candidates secure yr Election—in ye Next place yr people with you Are divided on ye Subject & as ye question on ye Constitution will be Aye, or no, you must displease one of them—yr Connections<sup>4</sup> are Also *vs* it they would press you to an Opposition & my dear friend we have not honesty or wisdom enough to exist without some such energetick govt—to talk of amending it is a mere farce ye Dift States would amend it so as to suit themselves respectively when these amendments would be proposed to a general Convention ye Deputies knowing ye Views of their Constituents would respectively become more tenacious of their respective local interests & perhaps the spirit of accommodation be so far lost as to render our destruction as a Confederacy inevitable—

Ye Votes from Albemarle will be for it if that were not ye Case I would think it yr Duty to stand if ye Devil was at ye Door—

When I hear more I will tell you more—

You find that I do not retaliate on you for yr Sins of Omission but that I write as if you had full credit with me on that score—

*A Planter*

*Virginia Independent Chronicle, 13 February*

*To the FREEHOLDERS of ALBEMARLE County.*

GENTLEMEN, Permit one of yourselves, who feels himself sincerely interested in the welfare of our common country, to solicit, in the most unfeigned manner, your kindest attention, to one of the most serious and important subjects, that ever was agitated by a free people. At this awful moment, when the fate of *America* hangs, as it were by a slender thread, it would illy become us to be influenced by passion, or to act with thoughtless precipitation. That calm deliberation, which ought, on such solemn occasions, to mark the character of freemen, should now be religiously observed. Selfish views must be suppressed; local interests sacrificed; and our conduct regulated by the purest principles of patriotism. It is not the fate of an individual, but that of millions; it is not the welfare of a state, but, that of mankind; it is not the happiness of the present age, but, that of the most distant posterity, which you are, solemnly, requested to determine. Upon your choice to the approaching convention may depend, in a great measure, not only your happiness, but the happiness of your children, who will, perhaps, indignantly trample on your graves, if you act improperly. For our sakes then, as a part of the state, and for the sake of our

posterity, let us make such a choice in our delegation, as will not only reflect honor on the country in which we live, but will enable us to contribute our proportion to the establishment of that general system of government, which our unhappy, distressed situation, may require.

Among the number of candidates, who have offered themselves to your choice, pardon me, if I tell you, that there is *one in particular*, whose mind, whose principles, and whose conduct render him, in my candid opinion, absolutely unqualified to discharge the important duties of the office, to which he aspires.

To develop the character of a man, and expose it stripped of its meretricious covering, to the public view, must be, to a benevolent mind, an unpleasing office. I call heaven to witness, that nothing, but the sincere regard which I feel for you in particular, and for my country in general, could induce me, at this moment, to undertake the painful task. But, sometimes, my friends, it is attended with such happy consequences, that even the most humane bosom cannot refuse its assent. By reflecting, like a faithful mirror, the deluded person to his own view, it will represent him to himself as he really is, and by shewing him his own insufficiency, it may, perhaps, induce him to remain in that sphere of life, to which he is best adapted, and in which he may be extremely serviceable to his family.

Let us, my friends, take a cursory review, of the mind and conduct of the person, to whom I allude, and from an impartial consideration of these points, let each of us ask ourselves this question—*Is he qualified to represent a free, virtuous, and enlightened people?*

*The candidate*, against whom I would caution you, professes to be a *zealous preacher*<sup>5</sup> of our holy religion—a religion, which speaks, “peace and good will to all men,”—which teaches us to render *to every man, that which is his due*,—and to regard with a *reverential awe*, the *sacred inheritance* of the *widow*, and the *orphan*. Yet this *preacher*—this *minister* of the *blessed Jesus*—has endeavored, with an industry peculiar to himself, to collect *subscribers* to a petition for *paper money*, and *tender laws*, which would, inevitably, have defrauded the *industrious* and *virtuous citizen*, ruined the unprotected *widow*, and *orphan*, and destroyed *public* and *private* credit.—And for what?—To relieve you, my friends? Let his *embarrassed* circumstances reply to this question.

Many of you, gentlemen, may recollect the melancholy tales which he, industriously, circulated, respecting the embezzlement of the public money, and the undiminished state of our debts. He has solemnly declared, that the taxes, which you have paid for a number of years, instead of being appropriated to public uses, were embezzled by the *great men*, and that the debts, which were contracted during the war,

instead of being diminished, were, rather, increased. These are some of the vile arts, with which he has endeavored to exasperate you against the government, under which you live. But, my friends, the statement of the public accounts, which was presented to you the other day by one of your representatives, the great reduction of your taxes, and the creation of a sinking fund, give the lie, in the strongest language, to these assertions. Yet the *author* of these *falsities* pretends to be a *zealous preacher* of the gospel of *truth*, and wishes to represent you in the *state convention*.

There is scarcely an individual, to whom I address myself, who does not possess, an understanding, far superior to his. The respectable county of *Albemarle*, can boast of at least *one hundred planters*, who are more eminently qualified to represent us, than *the person*, whom I describe. Pardon me, if I here ask—Is he possessed of the necessary knowledge to discharge the important duties required from your representative? Has he made government an object of his study? Or can he express himself, even on common subjects, so as to be understood? Let his public speaking in October last, and the obscure language of his petition, which excited the ridicule of the Assembly, reply to these questions.<sup>6</sup> Do you demand a farther confirmation of his want of abilities?—View his *deserted meeting-house!* even the members of his own religious society, conscious of his inability to discharge the sacred functions of the ministry, have declined going to hear him; and they once had it in contemplation to silence him. Yet, this man—this illiterate man—solicits your votes at the ensuing election.

Never, perhaps, was a free people invited to determine on a more difficult subject, than the *new plan* of government, which is submitted to your consideration. It is not every man, who is capable of discharging the duties of a member of the Assembly; and few, believe me, my friends, are able to investigate the merits of a government, which is intended for an extensive continent. Which of you, gentlemen, who had *four hundred pounds* depending on a proper determination of the convention, would employ *the man* to whom I allude, to decide it? How much less ought he now to be employed, when the *liberty*, the *property*, and the *happiness* of millions are at stake. The *man*, who *honestly* earns his frugal meal by the *sweat* of his brow, or he who *selfishly* revels in luxury, provided their minds are *little*, are *equally* unworthy to represent us.

Suppose, gentlemen, that you were requested to appoint persons to meet others from the *tobacco counties* for the purpose of proposing a plan to improve the cultivation of that plant, would you elect a man, however good and wise, who was a stranger to that business? How

much more difficult is it to make or amend a government. You might as well suppose, that the man, who was unacquainted with the nature of *tobacco*, would be able to devise a plan to improve its growth, as to suppose, that the man, who is ignorant of the principles of government, would be capable to make, or amend one. Would he be able to prepare amendments, should they be thought necessary? or understand those prepared by others? Will he not be liable to be used, as a blind tool, by some designing characters? Would he not, probably, be an unhappy dupe to the *sophistry*, *cunning*, or *ambition* of the *artful*? It is immaterial, my friends, whether we are ruined by *ignorance*, or *knavery*, our situation would be *equally* distressing.

When a free people chooses delegates to represent them on any public occasion, it is, generally believed, that they elect those, who enjoy the most respectable characters, and possess the most improved understandings. What opinion would the *convention* entertain of *Albemarle*, should we depute *this man* to represent us? Who, in the full exercise of his senses, would entrust a man, with the management of important business, whose understanding was inferior to his own? Shall we, then employ the *person*, I have described, to transact business for us, of the momentous nature, and which will require the greatest exertions of the greatest minds?—I trust, we are not so *stupidly* regardless of our private and public interests, nor so *strangely* insensible to our own dignity and importance.

In matters of national importance,—to delegate the *most worthy* is the *voice* of nature, and *language* of reason. He, alone, ought to be preferred to the highest dignities, who excels in those mental and personal qualifications, which are required for the proper performance of the duties annexed to them. Should we do otherwise, we violate the most *sacred laws* of nature, and act in direct opposition to the common *dictates* of reason. Who of you, gentlemen, would entrust his *life* and *property*, in a tempestuous season, on board of a ship, which was navigated by an unexperienced pilot? Would you, my friends, in the hour of hostile invasion, confer the command of an army, which was intended for *your safety*, on a *man* destitute of *industry*, *skill*, *experience*, and *valour*? Does not the *man*, who would attempt to execute an employment, to which he is not adequate, exceed the folly of a *child*, who endeavors to carry a burthen that can only be born by a *giant*.

I flatter myself, *my friends*, that you will pardon the liberty, which I have taken to describe to you, *the man* whom, in my humble opinion, you should *not elect*. Far, very far be it from me to mention the *particular men*, who *ought* to represent you. It would be presumption in

me to attempt it. But as a *man*, who feels himself *sincerely* interested in *your* welfare and in the welfare of *his* country, you will not, I hope, be displeased, should I relate to you the *indispensable qualifications*, which those *men* should possess, who are to represent you. They should be *men of acknowledged abilities*, and of *tried integrity*;—*men*, who have, already, rendered *important services* to the state, which are *greatly advantageous to you*, and *highly honorable to themselves*. They ought to be men, subject to those *endearing ties*, and *strong affections*, which attach us to *freedom*, and to *society*. They should be, equally remote from that *stupid obstinacy*, which will listen to *no* reason, and that *complying spirit*, which adopts *every* opinion. We are not destitute of such *men*. Perhaps, there is not a county in the state, which contains a greater number of *men*, better qualified to execute the important duties of representation, than Albemarle. Let me conjure you, then, by all *those hopes*, which, next to your *salvation*, ought to engross *your* attention, to make a *judicious choice*, at the *ensuing election*, and it will not require the *spirit of prophecy to predict*,—*that you will never repent of it*.

1. RC, Breckinridge Family Papers, DLC. In the omitted part of this letter, Stuart described the progress of bills then before the House of Delegates. (See note 6 below for another excerpt from Stuart's letter.)

2. On 31 October James Breckinridge had written his brother encouraging him to "endeavour to obtain a seat" in the Convention. "Your friends here [Richmond] are extremely anxious that you should" (RCS:Va., 136).

3. A reference to the legislative election held in April. Breckinridge was not elected.

4. John Breckinridge was Joseph Cabell's son-in-law.

5. Perhaps William Woods of the Albemarle Baptist church.

6. For the Albemarle petition on paper money, presented to the House of Delegates on 3 November, see "Petition from Albemarle for Emission of Paper Money," *William and Mary Quarterly*, 2nd ser., II (1922), 213–16; and *House Journal* [15 October 1787–8 January 1788 (Richmond, 1788)], 22, 23. William Woods (see note 5 above) signed the petition. On 6 November, Archibald Stuart reported that the "Albemarle Petn. for paper money afforded infinite mirth it was ridiculously drawn, & ye navish principle so thinly veiled that ye subscribers all shewed their Ar[se]s" (to John Breckinridge, Breckinridge Family Papers, DLC).

### Amherst, 3 March

William Cabell, Sr. (N) Samuel Jordan Cabell (N)

Archibald Stuart to John Breckinridge  
Staunton, 1 March (excerpt)<sup>1</sup>

... My Dr friend remain Neuter in Amherst & Retaliate on old Will for not coming to yr Election. He had other motives than those he avowed for not appearing on that important Day to yr Interest & reputation—

I wish you however modestly to assert your Opinion on the affirmative side of the question which independent of being the right will very soon be the popular side of ye Question—

*William Cabell Diary*  
*Union Hill, 3 March<sup>2</sup>*

My self & Sam. J. Cabell Nearly Unanimously Elected Members of Convention.

*Virginia Independent Chronicle, 12 March<sup>3</sup>*

The election of Amherst for members to serve in the Convention to meet in June next, being stopped at the request of Col. Hugh Rose, when the numbers stood as follows, viz.

WILLIAM CABELL	327
SAMUEL J. CABELL	313
HUGH ROSE <sup>4</sup>	23
SAMUEL MEREDITH <sup>5</sup>	5

The Gentlemen elected have ever declared themselves opposed to the Fœderal Constitution in the present form; the other two approve it. 600 Freeholders attended, and those who were prevented from voting, loudly and openly declared themselves in favor of the Gentlemen elected.

1. RC, Breckinridge Family Papers, DLC.

2. MS, Vi. A history of the Cabell family states that "After the election they [William and Samuel Jordan Cabell] treated the voters at Lucas Powell's ordinary to ninety-eight gallons of toddy and ten gallons of rum" (Alexander Brown, *The Cabells and their Kin* . . . [Boston, 1895], 187). William Cabell, Sr. (1730–1798), a planter, represented Albemarle and then Amherst in the House of Burgesses, in all five revolutionary conventions, and in both houses of the state legislature almost continuously from 1756 to 1789. After serving as a presidential elector in 1789, he retired from public service. "Union Hill" was his plantation. His son, Samuel Jordan Cabell, a planter, served in the Continental Army, 1776–81, rising to the rank of lieutenant-colonel. He represented Amherst in the House of Delegates, 1785–93.

3. Reprinted eleven times by 17 April: Mass. (1), R.I. (1), Conn. (2), N.Y. (1), Pa. (5), Md. (1). The *Massachusetts Centinel*, 2 April, summarized this report.

4. Rose, a planter, represented Amherst in the House of Delegates, 1777–78, 1780–81, 1782–83, 1785–87, 1790–91. His daughter married William Cabell's son, Landon.

5. Meredith, a planter, represented Hanover in the House of Burgesses, 1766–68, and in the fourth revolutionary convention, 1775–76, and Amherst in the House of Delegates, 1791–93. He was married to Patrick Henry's sister.

**Augusta, 18 March**  
**Zachariah Johnston (Y)     Archibald Stuart (Y)**

*Election Certificate*<sup>1</sup>

Be it known to all to whom these presents shall come that I William McPheeters Sheriff of the County of Augusta in my full County held at the Court-House thereof on the third Tuesday of March in the year of Our Lord 1788 by the electors of the said County qualified According to Law to choose representatives to the General Assembly have caused to be chosen two representatives for the said County to serve in convention to be held in the City of Richmond on the first Monday in June next agreeable to the Resolutions of General Assembly in that case made & provided namely Zechariah Johnstone and Archibald Stuart esqrs. & that the said members were unanimously Elected given under my hand and seal this 24 day of May 1788—

Wm McPheeters Sheriff

1. MS, Vi. On 1 March Archibald Stuart noted: "We go on smoothly here about ye Constitution & I believe Johnstone & myself are safe" (to John Breckinridge, Breckinridge Family Papers, DLC).

**Berkeley, 18 March**  
**William Darke (Y)     Adam Stephen (Y)**

*Adam Stephen to Horatio Gates, 19 December (excerpt)*<sup>1</sup>

... Bob Rutherford Antifederal and has declared himself a Candidate for the Convention. ...

*John Mark to Horatio Gates*  
*Shepherdstown, Berkeley County, 25 December*<sup>2</sup>

Yours of this Morning I duly received Shall pay particular regard to it's Contents—I'm well convinced Mr. Hoge will be happy in waiting on you at Travellers Rest, but cannot at this time inform you what day, I do mean to accompany him, and shall endeavour to bring Mr Kearsley along, the people of this place I beli[e]ve are fully determined to Send the two Generals, Gates & Stephen, being well assured if the New Plan of Governnt. is not adopted we must Sink, therefore every exertion Should be made to Send Gentn. that would use their Utmost and best endeavours to have the Governnt. recommended adopted, I will consult with Mr. Hoge & Mr. Kearsly and let you Know what day we will be out, I wish you & Mrs. Gates the compliments of the Season,—



*Robert Rutherford to Horatio Gates, 11 February*<sup>3</sup>

On being fully informed that You have offered as a Member to the intended Convention, I shall foregoe my intentions, as I wish not to act a Circumventing part, and in a very particular manner in the Case of a friend & one who I think has a just claim to every Confidence & esteem from the American Citizens. Please make what use you may think proper of this letter.

*John Kearsley to Horatio Gates  
Shepherdstown, 22 February*<sup>4</sup>

On my return from Court your Note was handed me & this is the first Oppy. of reply. The Letter you Mention was lodged with me and I shortly after handed it to Parson Vasey, who as I thought had it in his power to give it a passage, which he promised to do.

The Decline you mention was fully expected here, tho' some were of Opinion it would not take place untill the Evening of the 18th. March, when it would be certain

But the Retreat is made in good time and I am glad of it, as it saves us the trouble of enforcing the Resolutions entered into by a great Majority of this Town

*Winchester Virginia Gazette, 22 February*<sup>5</sup>

We hear from Berkeley, that Federal Principles are so prevalent there, that all opposition has subsided; in consequence it is expected the two Veterans<sup>6</sup> who offer as candidates for that County, in support of Federal Measures, will be unanimously elected.

This intelligence is the more agreeable, as, by a gentleman lately from Boston, we are informed, that there was a very violent opposition to Federal Measures in that State, principally by those concerned in Shays's insurrection.

1. RC, Gates MSS, NN. The place of writing is not given, but Stephen was a resident of Martinsburg, Berkeley County. For a longer excerpt from this letter, see RCS:Va., 244.

2. RC, Gates MSS, NN. John Mark was a Shepherdstown merchant with extensive land holdings. When Gates moved to New York in 1790, Mark bought his plantation, "Travellers Rest."

3. RC, Gates MSS, NN. Rutherford (1728-1803), a planter, represented Frederick and Berkeley in the House of Burgesses, 1766-76, and was a member of all five revolutionary conventions, 1774-76. He served in the state Senate, 1776-91.

4. RC, Emmet Collection, NN. Kearsley is apparently referring to Robert Rutherford's withdrawal as a candidate for the state Convention. Gates had docketed the Kearsley letter: "From Mr. Rutherford/22th. Feby. 1788."

5. Between 11 and 28 March, the first paragraph was reprinted twice each in Maryland and Pennsylvania.

6. Adam Stephen and William Darke were both former officers in the Continental Army. Stephen, a major general, was dismissed from service in November 1777. Darke was captured at Germantown, imprisoned until 1780, and fought at Yorktown in 1781. He retired in 1783 with the rank of lieutenant-colonel. Several newspapers incorrectly reported that Horatio Gates, also a major general in the Continental Army, was elected from Berkeley. (See Mfm:Va. and Robert Morris to Horatio Gates, 12 June, V below.)

### **Botetourt, 11 March** **William Fleming (Y)     Martin McFerran (Y)**

On 19 February, three weeks before the election of Convention delegates in Botetourt, William Fleming described the political situation in the county: "We have few Polititians, nor do the People seem to concern themselves much about the New federal Constitution. on the day of Election I suppose they will choose those of the Candidates, they can best confide in. Who will offer I know not. should the Voters choose me for one, I will serve them as I look on it to be my duty, and the last [years?] service I can render my Country, should I be rejected, it will give me no umbrage, it will be a pleasure to see members of superior abilities, and equal willingness, ready to serve the County." He also wrote that he had wanted the central government strengthened but thought that the Constitution should be amended to secure liberty (to Thomas Madison, RCS:Va., 383-84). After the election, Caleb Wallace wrote him from Danville, Ky., that "It is reported here that you expect to attend the State Convention" (22 March, Hugh Blair Grigsby Papers, ViHi).

On 19 February William Fleming also answered a 25 January letter from William Russell of Washington County in which Russell expressed his fears about the Constitution and sought Fleming's opinion about it (RCS:Va., 323-25). Fleming's response, which was circulated in Washington, has not been found, but on 24 March Russell answered it, telling him that all who saw the letter "acknowledge your remarks to be very powerful; and [I] am persuaded it is our general wish here, that you succeed in your election for the Convention" (Draper Manuscripts, Frontier Wars, State Historical Society of Wisconsin. See Washington County Election, below.).

Archibald Stuart of Augusta County, a former resident of Botetourt who served that county in the House of Delegates, 1783-85, apparently played a role in the Botetourt election. In 1855 Alexander H. H. Stuart described his father's involvement: "There was no public question in which my father seems to have taken a deeper interest than the ratification of the Federal Constitution—Every energy of his nature was exerted to ensure its adoption by Virginia—Having learned but one day before the election was to be held for delegates to the Convention from the County of Botetourt, that the candidates were unwilling to pledge themselves to Vote for the Constitution, he mounted his horse, & rode day & night to Fincastle, a distance of 75 miles, to make an appeal to his old constituents in behalf of the Constitution—He arrived at the Court-House after the election had commenced, & induced a suspension of the polls, until he could make an address to the people—The arguments which he urged in

favour of the Constitution, were so persuasive, that the people were induced to require explicit pledges of the candidates to vote for the Constitution which were at length given & afterwards faithfully redeemed" (27 September 1855, Miscellaneous Manuscripts, Hugh Blair Grigsby Folder, DLC. This letter, describing the elder Stuart's "public services & character," was written to Hugh Blair Grigsby who was writing a history of the Convention.)

**Brunswick, 24 March**  
**John Jones (N)      Binns Jones (N)**

*Poll List<sup>1</sup>*

This undated, incomplete document consists of twelve pages with the names of 283 voters. It is located in a box labeled "Brunswick Co. Election Returns & Polls." Several pieces of information reveal that the document is probably the poll list for the election of state Convention delegates. John and Binns Jones, the two candidates with the most votes on the poll list, served together only two times as state officeholders—in the state Convention and in the House of Delegates, 1790–91. The Joneses and Thomas Stith, the defeated candidate in the state Convention election, appear in both the poll list and in a petition (printed immediately below) that Stith presented to the Convention on 2 June. Another poll list containing 467 names and clearly labeled exists for the election of Brunswick members to the House of Delegates in April 1790, at which time the Joneses were elected to serve in the 1790–91 session.

Each page of the poll list is divided into five columns, the first four of which, from left to right, read: "Voters Names," "Majr. Tho Stith," "Colo Jno. Jones," and "Colo B. Jones." The fifth column is blank. Voters' preferences were indicated by placing a "1" in one or two columns. Totals for each candidate are given at the bottom of each page, except for the two torn pages. The results are Thomas Stith 116, John Jones 259, and Binns Jones 169. (The total for John Jones at the bottom of the last page is incorrect—it should read 22, not 23.)

John Jones was the overwhelming choice of most Brunswick voters. Voters apparently realized that Stith and Binns Jones were challenging one another for the other Convention seat. Consequently, only two people voted for both men, while twenty-two people voted for Stith alone.

An "X" follows the names of thirteen voters—ten of whom voted for Stith and John Jones; three for Stith alone. Following the names of voters "Wm James" and "Wm Edwards" are, respectively, these notations: "(this man Voted for B J)" and "(No Carolina)."

John Jones, a planter, county lieutenant, and justice of the peace, served in the House of Burgesses, 1771–73, Senate, 1776–89 (speaker, 1787–89), and House of Delegates, 1790–91. On the county level, he variously served as a surveyor, sheriff, treasurer, and militia quartermaster and colonel. His son, Binns, was a planter and a member of the House of Delegates, 1786–87, 1788–89, 1790–91. He also served as a militia lieutenant, justice of the peace, and surveyor. Stith (1729–1801), whose petition protesting his election defeat is printed immediately below, was a member of the House of Burgesses, 1769–74, and the first revolutionary

convention, 1774; and he served as a justice of the peace, militia major, and county surveyor.

*Petition of Thomas Stith*<sup>2</sup>

To the honourable the general Convention of Virginia.

The Petition of Thomas Stith of the County of Brunswick humbly sheweth; That your Petitioner became a Candidate for the said County as a Delegate to your honourable House now sitting, together with John Jones and Binns Jones Esqrs now returned as Members; That your Petitioner never being fond of Popularity had not made it his business or endeavour to become acquainted with the Persons and circumstances of all the Inhabitants of his County, so that many appeared from the remoter parts and voted, whose Names & Faces he knew not: and your Petitioner being apprised by some of his Friends, that several that had Voted and were Polled were not Freeholders, he immediately applied to the Sheriff desiring him not to suffer bad votes to be given, but the Sheriff refusing to interfere, bad votes continued to be Polled, so that on closing the Election a Majority of Votes appeared in favour of the said John Jones & Binns Jones Esqrs

Your Petitioner begs leave further to represent that he hath good reasons to believe, that he had more Votes of Freeholders, than the said Binns Jones; and that he is prepared with such Vouchers,—as with Comparing the last return of the Land Tax List & the List of Deeds Recorded in our Court from May 1787, with the Poll, he hopes will convince your honourable House, that he is, and ought to be considered as the legal Representative for the said County in place of the said Binns Jones.

On common occasions your Petitioner would hardly have thought of troubling your honourable House, but the present Question involving in it, such immense consequences, your Petitioner cannot in justice to himself, his Country, or the Freeholders of Brunswick his Constituents avoid making application for a Seat in Convention.

Your Petitioner therefore humbly prays, and in behalf of the Freeholders who voted for him, humbly insists that a Day as short as possible, may be fixed for the examination of the Premises. being fully convinced that every Member of your honourable House, must see the impropriety of putting the final Question, while there remains in the Convention a single illegally returned Delegate. And your Petitioner shall pray &c

1. MS, Vi. For a photographic reproduction, see Mfm:Va.

2. MS, Virginia Convention to Ratify U.S. Constitution, 1788, Vi. On 2 June Stith's undated petition was read in the state Convention which referred it to the Committee

of Privileges and Elections. On 6 June the Convention, upon the recommendations of the Committee, resolved that depositions for Stith and Binns Jones be taken before at least four of Brunswick's justices of the peace and that the petition be deferred until 20 June. The Convention then ordered that the Committee of Privileges and Elections "be discharged from further proceeding on the petition" and that Stith "have leave to withdraw" his petition. The petition is docketed as "withdrawn." (See Convention Debates, 2 and 6 June, IV below.)

**Buckingham, 10 March**  
**Charles Patteson (N)      David Bell (N)**

*Poll List*<sup>1</sup>

This eight-page document is headed "a poll held for the Election of two representatives for the County of Buckingham to the convention of Virginia at the Courthouse the 10th. March 1788." Each page is divided into four columns which read from left to right: "Voters names," "J. Cabell," "C. Patteson," and "D. Bell." Voters, whose names are listed in the left column, cast votes for two candidates, indicated by an "x." The vote totals appear on the seventh page: Cabell (223), Patteson (288), and Bell (243).

Patteson represented Buckingham in the House of Delegates, 1776-78, 1781-85, 1787-88, while Bell served in that body, 1789-93. "J. Cabell" was probably Joseph Cabell who represented Buckingham or Amherst counties in the House of Burgesses, 1761-76; the first four revolutionary conventions, 1774-76; and the House of Delegates, 1778-79, 1780-81, 1787-89. He was a state senator, 1781-86.

1. MS, Acc. 20238, Vi. For a photographic reproduction, see Mfm:Va.

**Caroline, 13 March**  
**Edmund Pendleton (Y)      James Taylor (Y)**

*James Duncanson to James Maury*  
*Fredericksburg, 11 March (excerpt)*<sup>1</sup>

My dear Friend

... Caroline will come on next Thursday. where old Pendleton almost the only Judge in the State for the constitution will I suppose be chosen.<sup>2</sup> . . .

*Narrative of James Taylor, Jr.*<sup>3</sup>

... In '88 I attended at the election of members of the Va. Convention to pass on the adoption of the Fed. Constitution. The Hon. Edmund Pendleton and my father were elected without opposition and Judge P. was President of that distinguished body. Both of the members warmly advocated its adoption and voted for it. It was ratified by a majority of only nine votes in that body. The celebrated P Henry,

Colonel Grayson, Cuthbert Baltaile,<sup>4</sup> and many other eloquent men being opposed to its adoption. I must name an incident which happened on the Court House Green between the late Colonel John Taylor of Caroline. He was violently opposed to the adoption of the Constitution, came up to my father and remarked that that instrument abounded in defects and ought in his opinion not to be adopted. My father remarked that he had been waited upon by many of the most influential men of the County and unsolicited called on to become a candidate with Judge Pendleton, and he had consented and could not withdraw, but told Colonel Taylor if he thought proper to offer his services and assured him it should not be considered by him a breach of their friendship. About this time Colonel P. stepped up and remarked No, Colonel Taylor, you must not decline, my nephew John thinks he knows better than we do and will support nothing which does not accord with his opinion of perfection. We know the old confederation is like a rope of sand, nothing compulsory in it. My father remarked, there were some features in the instrument he thought required amendment, that a mode was provided in the instrument for that purpose and whenever its defects were experienced by Congress he had no doubt amendments would be effected. But reserved his remarks to offer if he thought proper and it would give no offense. Colonel Taylor remarked, no sir,—for very good reasons, I will not be a candidate, I know I could not if I would, and I would not if I could succeed against you. . . .

1. RC, Maury Papers, ViU. A longer excerpt of this letter is printed in RCS:Va., 478–80.

2. Five state judges (Edmund Pendleton, Paul Carrington, John Blair, William Fleming, and George Wythe) voted to ratify the Constitution in the state Convention; two (Richard Cary, Jr., and John Tyler) voted against ratification.

3. Typescript, Cincinnati Historical Society. The narrative was written after 1834 by General James Taylor, the son of delegate Colonel James Taylor. The elder Taylor (1732–1814), a planter, represented Caroline in the House of Burgesses, 1774–76, in all five revolutionary conventions, 1774–76, and in the House of Delegates, 1776–77. He was a state senator, 1777–84, 1789–92. General Taylor (1769–1848), surveyor of Caroline County, moved to Kentucky in 1791.

4. Cuthbert Bullitt.

### Chesterfield, 13 March

David Patteson (Y)      Stephen Pankey, Jr. (N)

*Edward Carrington to James Madison*  
*Manchester, 10 February (excerpt)*<sup>1</sup>

. . . in Chesterfield Tucker & Baker are Candidates, and both against the Constitution—the former is for going equal lengths with Mr. H—but with different views—he is unfortunately one of those who overrate

the importance of Virga. and think she may dictate to the whole union. it happens that some of the most popular Men in the County are against both these Gentlemen in opinion & will oppose their election unless they alter their sentiments. . . .

1. RC, Madison Papers, DLC. The entire letter is printed in RCS:Va., 359-61.

**Culpeper, 17 March**  
**French Strother (N)     Joel Early (N)**

*Andrew Shepherd to James Madison*  
*Orange, 22 December (excerpt)<sup>1</sup>*

. . . Our Old Senator Capt Walker stands forth in Culpepper, As do's Genl. Stevens.<sup>2</sup> I have not heard for certain of any other, however it is expected there will be others as there are some very great opo- nents. . . .

*James Duncanson to James Maury*  
*Fredericksburg, 8 May (excerpt)<sup>3</sup>*

. . . French Strother<sup>4</sup> had Interest in Culpr., to shut out Colo. James Pendleton<sup>5</sup> who was for the Constitution, & carry Joel Early<sup>6</sup> with him, for both Convention & Assembly. Early was a friend to the measure, & I beleive is still so in his heart, but the other designing Knave, knowing that Early had Interest in the upper part of the County had adress enough to turn his foibles of pride & ambition to account, & prevailed upon him to declare against it, & by that mea[n]s was elected. . . .

1. RC, Madison Collection, NN. Shepherd, a justice of the peace in Orange County, had been sheriff since 1786. Another excerpt from this letter is printed in Orange County Election (below).

2. James Walker, a militia captain during the French and Indian War, was a state senator for the district composed of Spotsylvania, Orange, and Culpeper, 1777-79. Edward Stevens, a militia brigadier general during the Revolution, was a state senator, 1776-77, 1779-91.

3. RC, Maury Papers, ViU. Maury, a Fredericksburg merchant who had moved to Liverpool in 1786, endorsed the letter "received the 2 July/Answered/31 July." Another excerpt is printed in Orange County Election (below). On 11 March Duncanson expressed the fear to Maury that in Culpeper "very bad Men" would be elected, and he told him that "Henry & his Minions, such as your friend French Strother, Tom Barbour &c. are hardy enough to declare that they would rather see the Union dissolved, than adopt the Constitution" (RCS:Va., 479).

4. Strother, a planter, represented Culpeper in the fifth revolutionary convention, 1776, and in the House of Delegates, 1776-91. He served in the state Senate, 1791-1800.

5. Pendleton, a planter and former colonel in the Continental Army, was a justice

of the peace and sheriff. He represented Culpeper in the House of Delegates, 1782–85, 1786–88.

6. Early, a planter, was also elected to the House of Delegates in April, succeeding James Pendleton. Early moved to Georgia in 1791.

### Cumberland, 24 March

Joseph Michaux (N)      Thomas H. Drew (N)

*Beverley Randolph to St. George Tucker, 25 March (excerpt)<sup>1</sup>*

My dear St. George

[Jony?] delivered me your Letter yesterday just before the Election. Your vote would indeed have been useless. Michaux whom you know well & Colo. Thos. Drew a gentleman remarkable for little but his Vices were elected by a great Majority.<sup>2</sup> . . .

*George Anderson to Richard Clough Anderson*

*Newington, Cumberland County, 30 April (excerpt)<sup>3</sup>*

. . . You will no doubt expect in receivg a letter from this quarter to be informed of something interesting but if I was to study a week and collect everything I have read from the barren newspapers for three months past I should not be able to mention a sentance worth your attention except I was to drown myself in the lengthy and various disputes between the Faederalist and Anti Faederalist throughout this state which I imagine must have tired e'er this even the patience of those settled in the most uninhabited spot of Kentucky. A great number of very cleaver men are elected to the Convention to be held in June next and it is to be hoped they will act for the best, among them are The Honble Edmund Pendleton Esq. The Honble George Wythe, Jno Blair and Edmd Randolph Esq. James Madison, James Ennis [Innes], George Mason and Patrick Henry Esq. and a number of other shining characters, but there are some others that are not to be braged of and for the credit of Cumberland we have to boast of *Jacob Micheaux*<sup>4</sup> and *Thomas Drew* esq, *Gentlemen* who were chosen in preference to Beverly Randolph, Saml Anderson & Mayo Carrington<sup>5</sup> who were candidates with those Gentlemen but neither stood the smallest chance owing altogether to their being Faederalist and the others opposite. . . .

*Petition of Samuel Anderson<sup>6</sup>*

To the honorable the President and Members of the Convention.

The petition of Samuel Anderson of the County of Cumberland Humbly sheweth:

That at the Election of Delegates to represent the said County in



Convention Mr. Thomas H Drew an inhabitant of the said County was a Candidate, and at the close of the Poll appearing to have a majority of Votes, was together with Mr. Joseph Michaux returned to represent the said County in this Honorable Convention. That the said Thomas Drew is not, and was not at the time of his Election, a freeholder in this Commonwealth, and therefore, not possessing the qualification required by the Resolutions of the General Assembly, is not duly elected to represent the said County. Your Petitioner therefore prays as well for himself as on behalf of the freeholders of the said County that the Election of the said Thomas Drew may be set aside, and another Election directed to supply his place.

And your Petitioner as in duty bound will ever pray. &c.—

1. RC, Tucker-Coleman Papers, ViW. Although the place of writing is not given, the letter was obviously written in Cumberland County.

2. Drew was a militia lieutenant-colonel and Michaux, a planter, was a justice of the peace.

3. Typescript, Samuel Anderson Folder, Cincinnati Historical Society. William Allen delivered the letter. George Anderson (1755–1816), a tavern keeper and planter (Newington Plantation), represented Cumberland in the House of Delegates, 1787–88. His brother, Richard Clough Anderson (1750–1826), was a lieutenant-colonel in the Continental Army. In October 1783 he became surveyor general for the military bounty lands in Kentucky and soon moved to the Louisville area.

4. Joseph Michaux was elected, not his father Jacob, who had died in 1787.

5. Mayo Carrington, the brother of Paul and Edward Carrington, had been an officer in the Continental Army. A planter and a justice of the peace, he represented Cumberland in the House of Delegates 1786–88.

6. MS, Virginia Convention to Ratify the U.S. Constitution, Vi. Anderson (1757–1826), a planter-lawyer and a brother of George and Richard Clough Anderson, was commonwealth attorney for Cumberland from about 1789 until his death. On 4 June his undated petition was presented to the Convention which turned it over to the Committee of Privileges and Elections. On the 5th, the Convention accepted the Committee's report rejecting the petition.

### Essex, 17 March

**James Upshaw (N) Meriwether Smith (N)**

#### *Poll List*<sup>1</sup>

This poll list consists of three full pages and part of a fourth. Each page contains four columns. The columns on the first three pages are each headed with the name of one of the Convention candidates: Meriwether Smith, John Edmondson, James Upshaw, and Newman Brockenbrough. The four columns on the fourth half-page are all headed with Smith's name. Under each candidate's name are the names of the freemen who voted for him. Smith received 171 votes (the total is incorrectly listed as 172), Edmondson 48, Upshaw 127, and Brockenbrough 87. Since John Edmondson, the sheriff, was a candidate, the poll list was certified by deputy sheriffs Richard Banks, Jr., and Benjamin Fisher.

Edmondson, a planter, became a justice of the peace in 1780 and represented Essex in the House of Delegates, 1777–81, 1782–84. Brockenbrough became a justice of the peace in 1777, represented Essex in the House of Delegates, 1781–82, and was sheriff, 1783–84. James Upshaw, Jr., a planter, represented Essex in the House of Delegates, 1786–94.

1. MS (photostat), Essex County Deed Book, No. 33, pp. 108–10, County Records, Vi. For a photographic reproduction, see Mfm:Va.

### Fairfax, 17 March David Stuart (Y)      Charles Simms (Y)

The two most prominent men in Fairfax County were George Washington and George Mason, both of whom had served in the Constitutional Convention. Rumors persisted that Washington, a signer of the Constitution, would represent the county in the state Convention, but he had no intention of being a delegate. Mason wanted to represent the county, but his refusal to sign the Constitution, the publication of his objections to it, his increased hostility to the Constitution, and some local political brawls had aroused considerable opposition to him. Consequently, Mason decided to stand for election in Stafford County. On election day, 17 March, the voters of Fairfax unanimously elected two strong supporters of the Constitution, Charles Simms and David Stuart. The latter, who had married the widow of Washington's stepson, was a close friend and neighbor of Washington.

For public meetings in the town of Alexandria and Fairfax County at which the Constitution was unanimously approved and instructions were given to the county's legislative delegates to call a ratifying convention quickly, see RCS:Va., 23–24.

*Lambert Cadwalader to George Mitchell*  
*New York, 8 October (excerpt)*<sup>1</sup>

... it is said and believed here that the County of Fairfax in Virginia wh[ich] Mason represents in the Legislature of that State will instruct him to vote for the Calling of a Convention in Virginia to take into their Consideration the new Constitution & I make no Doubt as Genl Washington lives in the same County that Mason will either not be chosen a Member of the State Convention or, if he is, that he will be instructed to agree to the Adoption of it. . . .

*James Hughes to Horatio Gates*  
*Alexandria, 20 November (excerpts)*<sup>2</sup>

... The Federal constitution is universally approved of *here*. . . . Col. Simms, who is a warm friend to the measure, has declared himself a candidate for the Convention & is universally approved of. Dr Stewart,

will probably be the other member. Should Col. Mason offer himself he would hardly get twenty votes in the whole County for, he has made himself odious, by an illiberall abuse of the Commissioners of the Turnpike, & an attempt, to divide the Town, from the County. . . .

*Pennsylvania Gazette, 21 November*<sup>3</sup>

We hear that his Excellency General WASHINGTON has consented to represent the county of Fairfax, in Virginia, in the state convention of that commonwealth, which is to take into consideration the new fœderal government.

*James Mercer to John Francis Mercer*  
*Richmond, 12 December (excerpt)*<sup>4</sup>

Dear Brother—

I have just recēd your last favour and it is quite my wish that the people of Stafford elect Colo. Mason for Stafford, it ought not to be questioned that his own County wou'd elect him & I shall recomēd to him to set up for Fairfax in order to shut out some body that other wise wou'd be for the Constitution—this I suppose as General Washingtons Silence will allow the Tories to say that he is for the Constitution whether or not & I know what that respectable [man] approves has justly so much weight in Fairfax that no man in the County cou'd be elected, as agt. the Constitution but Mason—But still I wou'd the County of Stafford elect him for such a Man shou'd not be risqued at so important a Crisis—Doctor Stewart, Masons Colleague is warmly for the Constitution & I am told Fitzhugh of Chatham<sup>5</sup> is as much so that by Masons having a double election he will count [as two in?] favour by shutting out one that wou'd be for it—I have the pleasure to assure that this Town & assembly are much converted since I was here before, the House has divided on a point that discovered their Sentiments & the Numbers were 59 agt. & 60 for the Constitution, but still there is a change on the other side—for the Chancellor<sup>6</sup>—Mr. Lyons<sup>7</sup> the Atty. General<sup>8</sup> & Bev. Randolph are gone over to the other side since I was here before—why so? is to me inexplicable but upon the principle that what is bred in the Bone &c<sup>9</sup>—High Toned Gentry can never be sound Republicans they but deceive themselves if they think so, like the Lady in the Fable they will catch Mice if ever one comes in their way. . . .

*Edward Carrington to Henry Knox  
Fredericksburg, 12 January<sup>10</sup>*

I have as yet passed through no more of this State than what is called the Northern Neck—there I find the opponents of the Constitution pretty Numerous and vociferous—Symptoms are however in favor of the measure as to the dispositions of the great Mass of the people—Colo. Mason is decidedly discarded by a Majority of his late constituents in Fairfax County—so conscious is he that they will not elect him for the Convention that he has declared himself a Candidate for a Neighbouring County, where he is invited by some characters of influence who are with him in opinion; but it is supposed he will not succeed in the election—R.H. Lee has in a great measure declined to act in the opposition, finding that even his own family have separated from him—My Accounts from the southern parts of the State are alarming—so many of the influential characters Unite there on the wrong side, that the people must be misled for want of the necessary information—I am unhappily placed in the midst of this influence—so far as my efforts will go to counteract it, they shall be exerted, but it will be hard to Stem the Torrent [of] folly which must, by this time, be created under such a combination. It is fortunate that the Convention is long postponed—by the time it comes into session, it will act under an influence different from that of views of the opponents.

Governor Randolph has fully committed to the public view his opinions as to the conduct which it will be wise now to pursue with respect to the Constitution, as well as his reasons for refusing to sign it in Convention—the result is, that we ought to adopt it—this publication<sup>11</sup> will be of service, and will doubtless do the writer much honor. I have not a Copy at hand, but, you will see it in the papers.

When my information is enlarged I shall do myself the pleasure to write you fully . . .

*David Stuart to George Washington  
Abingdon, Fairfax County, 17 February (excerpt)<sup>12</sup>*

. . . I have just returned from a tour round part of the County—I mean about the middle of the week to set out again—I find that Pope<sup>13</sup> and Chichester<sup>14</sup> in particular, have been very active in alarming the people. The latter Gentleman and myself were near meeting at several houses—He had his pockets full of Mason's objections; which he leaves wherever he calls—He is trying to persuade some one opposed to the Constitution, to offer for the Convention—Mr. Pollard<sup>15</sup> informed me

that he applied to him, but that he declined it. I am happy to find, that he has met with no success except with old Broadwater<sup>16</sup>—Mr. Little<sup>17</sup> informs me, that he appears to be changed, and to be disposed to offer himself, in opposition to those who approve of the Constitution—I almost think that Mason, doubtful of his election in Stafford will offer for this County, notwithstanding his declarations—I think he might have been satisfied with the publication of his objections, without taking the pains to lodge them at every house—I find it currently believed in this County, that you consider amendments necessary. It therefore appears to me, that it would be of advantage to the Constitution, to undeceive the people in this respect; by some communication on it. Would not Mr. Blair your fellow labourer in the business, be a proper person, through whom to introduce it to the Publick? If you should think proper to take any step of this sort, it would be particularly useful, to take some short notice of the difference between the Objectors—I find this argument to have the most weight with the common class—

*George Washington Diary*  
*Mount Vernon, 17 March*<sup>18</sup>

Thermometer at 37 in the Morning.—at Noon—and—at Night. Clear all day and pleasant—Wind a little variable—in the Morning Easterly—in the evening Southerly.—

Went up (accompanied by Colo. Humphreys) to the Election of Delegates to the Convention of this State (for the purpose of considering the New form of Governmt. which has been recommended to the United States); When Doctr. Stuart and Colo. Simms were chosen without opposition.<sup>19</sup>—Dined at Colo. Fitzgeralds<sup>20</sup> and returned in the Evening—

*Virginia Journal, 18 March*<sup>21</sup>

Yesterday being the Day appointed for the Election of Delegates from this County to the State Convention, the Poll was opened at twelve o'Clock, and closed at four, when, to the Honour of both Town and Country, CHARLES SIMMS and DAVID STUART, Esquires, Characters truly Federal, were unanimously elected.

*Massachusetts Salem Mercury, 22 April*<sup>22</sup>

*Extract of a letter from Alexandria (Virginia)*  
*to the printers hereof, March 26, 1788.*

“The customs and duties with which our trade in this State is this

year fettered, will, of course, make business uncommonly dull this summer. Politicks engross the attention of all ranks of people here, at present. At the late election here, for members for a State convention, several antifederal characters offered themselves as candidates. On the morning of the election a well wrote label, in verse, appeared against the Court House door, which operated so powerfully in the minds of the people, that federal men and federal measures were the unanimous vote & toast of the day. Several influential characters are, however, much opposed to the new constitution. At the head of the antifederal party is Col. G\*\*\*\* M\*\*\*\*, a man possessed of an immense landed property, and who is exerting every nerve to crush the system in its bud. As it is evident this great politician is opposed to this constitution from mere mercenary, selfish views, I hope he may be disappointed, and meet the due rewards of his merits."

*St. Jean de Crevecoeur to Comte de la Luzerne*  
*New York, 16 May (excerpt)*<sup>23</sup>

. . . 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 had been kept open for three days, in order to give the partisans of the new Constitution, & General Washington's friends, the time to be able to make him 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 *great President*, this conduct does nothing to assure those who maintain that his presence alone in the Convention, would have carried [more than?] twenty votes. . . .

1. RC, Emmet Collection, NN. For a longer excerpt, see CC:140. Mitchell was a delegate to the Delaware House of Assembly from Sussex County.

2. RC, Emmet Collection, NN. For longer excerpts from this letter, see RCS:Va., 168-70.

3. This item was reprinted in the *Winchester Virginia Gazette* on 21 December, and in forty-three newspapers outside Virginia by 31 December: Vt. (1), N.H. (4), Mass. (10), R.I. (3), Conn. (7), N.Y. (8), N.J. (1), Pa. (2), Md. (3), S.C. (2), Ga. (2). On 16 December Lawrence Taliaferro reported: "I am inform'd that that Excelent & good man Genl. Washington has offer'd himself for the Spring convention" (to James Madison, Orange County Election, below). There is no evidence that Washington was ever a candidate

for the Convention. The *Charleston City Gazette*, 11 July, reported that "General Washington declined a seat in the Virginia convention, being of opinion that there was an impropriety in any gentleman who sat in the general convention setting again to consider a constitution already approved of."

4. RC, Mercer Papers, ViHi. James Mercer (1736–1793), a lawyer, represented Hampshire in the House of Burgesses, 1762–76, in all five revolutionary conventions, 1774–76, and in the House of Delegates, 1776–77. He served in Congress, 1779–80, and was a judge of the General Court, 1779–89, and the new Supreme Court of Appeals from November 1789 until his death. He was the half-brother of John Francis Mercer (1759–1821). For more on the latter, see RCS:Va., 276, note 5.

5. William Fitzhugh (1741–1809), whose plantation "Chatham" was in Stafford across the Rappahannock River from Fredericksburg, represented King George County in the House of Burgesses, 1772–76, in all five revolutionary conventions, 1774–76, and in the House of Delegates, 1776–77. He represented Stafford in the House of Delegates, 1777–78, 1780–81, 1787–88, and was a state senator, 1781–85.

6. Edmund Pendleton.

7. Peter Lyons, like James Mercer, served on the General Court from 1779 to 1789, when he was appointed to the new Supreme Court of Appeals.

8. James Innes.

9. "What is bred in the Bone will never get out of the Flesh; neither can any thing come out of a Vessel but what is put into it." See "The Two Fishermen and the Three Fish," *The Instructive and Entertaining Fables of Pilpay* . . . (4th ed., [Newport], 1784), 44–45 (Evans 18364).

10. RC, Knox Papers, MHi. Endorsed by Knox: "Answered on the 10th Feby and gave a state of affairs in Massachusetts." Knox, chief of artillery in the Continental Army, had commanded the artillery at the Battle of Yorktown. Carrington, who had served as chief of artillery in Nathanael Greene's army, had directed the Virginia artillery at Yorktown.

11. For Randolph's 10 October letter to the Speaker of the Virginia House of Delegates, printed by 27 December, see RCS:Va., 260–75.

12. RC, Washington Papers, DLC. "Abingdon" was the plantation of the late John Parke Custis, Washington's stepson. Stuart and Custis' widow were married in 1783, and they resided at "Abingdon."

13. John Pope, a trustee of the town of Dumfries, was a state senator, 1787–92.

14. Richard Chichester was a justice of the peace. His daughter was married to George Mason's son.

15. Thomas Pollard, a mill owner, was a justice of the peace in 1787. He was Edmund Pendleton's brother-in-law.

16. Charles Broadwater, a planter, served in the French and Indian War and was a justice of the peace as early as 1764. He represented Fairfax in the House of Burgesses, 1775–76, in the first four revolutionary conventions, 1774–76, and in the House of Delegates, 1782–84.

17. Charles Little emigrated from Scotland in 1768, served as an officer in the Continental Army, and was a justice of the peace. He was a commissioner for the public roads from Alexandria to northwestern Virginia.

18. MS, Washington Papers, DLC.

19. An "Extract of a Letter from a Gentleman of Veracity in Fairfax County," dated 24 March, in the Providence *United States Chronicle*, 24 April, reported that Stuart and Simms "were elected Members of Convention for this County, with but one opposite Vote, and that by a Son of the famous Colonel Mason" (III below).

20. John Fitzgerald emigrated from Ireland in 1769, settling in Alexandria as a merchant. He served as a lieutenant-colonel and aide-de-camp to Washington, 1777–78. He was a director and later president of the Potowmack Company, a justice of the peace of Fairfax County, and mayor of Alexandria.

21. This issue of the *Virginia Journal* is not extant. By 28 April five newspapers had reprinted this account: two in Connecticut and one each in Maryland, Pennsylvania, and Vermont. All of the newspapers reprinted the account under the dateline "Alexandria, March 18." The text printed here is taken from the *Maryland Journal*, 28 March, the earliest known reprint.

22. This item was reprinted in the *Massachusetts Centinel*, 30 April; Portland, Maine, *Cumberland Gazette*, 1 May; and *New Hampshire Spy*, 2 May. The *Centinel* and *Spy* omitted the last sentence.

23. RC (Tr), Affaires Étrangères, Correspondance Consulaires, BI 910, New York, ff. 56–59, Archives Nationales, Paris. Crevecoeur (1735–1813), born in France, migrated to Canada and was a French army scout and mapmaker in the French and Indian War. From 1759 to 1769 he traveled extensively throughout the American colonies. He became a naturalized citizen in 1765 and settled on a farm in New York in 1769. He visited France in 1780 and returned to the United States in 1783 as the French consul for New York, New Jersey, and Connecticut.

**Fauquier, 24 March**  
**Martin Pickett (Y)     Humphrey Brooke (Y)**

*Winchester Virginia Gazette, 2 April (excerpts)*

*The following return of elections for Delegates to serve in Convention, have been received since our last. . . .*

Fauquier,

(Federalists.)		(Anti-federalists.)	
Martin Pickett, <sup>1</sup>	225	William Strickett,	145
Humphrey Brooke, <sup>2</sup>	210	_____Jennings,	98

*William Allason to John Likely*

*North Wales, Fauquier County, 24 May (excerpts)<sup>3</sup>*

. . . This Country, and the Laws made in it since the Peace, are rather calculated to prevent you and all others from having any trade to it, than an encouragement to engage in the business.

There is now a great number of New Merchants as well in the Country as in the Towns. they, or many of them, have new methods of doing business from what was in use in former days; as its a secret to me am not able to Communicate it to you, but so it is that many are now wealthy, or appears to be so, that were very [far] from it before the War, and others again are much hurted in their circumstances—I join with you in thinking the Trade to this Country precarious, yet the Credits given in the Stores that wishes to do a good deal of business is very considerable, very different from what I expected, at the conclusion of the War. pretty certain I am that those engaged in that plan, are much pinched, and I wish their Credit in the end may not be injured by it—



... At present I am very little engaged in Trade, not more than in a small way with my brother in Falmouth who lives there as much to be in the way of looking after old balances as to any gain that may be made from keeping Store. I very probably may extend it after our Government is fully established; which I expect will be after a short time, when the New Fed[er]al Constitution will take place, contrary to the wishes and expectations of all those largely indebted to Britain—Your old acquaintances Hy. Brooke & M Pickett are elected members of Convention to meet 2d. June to consider of its adoption, or not. they I expected from being avowed friends to it, wou'd have been dropped, but to my surprize carried their Election by a great majority. the same Spirit prevailed in other Counties, and the opposite in others; on the whole it is expected that it will be Recv'd in this State, as it was lately in Maryland. . . .

1. Pickett was a planter and justice of the peace.
2. Brooke was clerk of both Fauquier County and the Virginia Senate.
3. FC, Allason Papers, Vi. Allason, formerly a merchant in Falmouth, near Fredericksburg, had retired to his plantation, "North Wales," near Fauquier Courthouse (now Warrenton). Likely, a merchant, lived in Virginia before and during the Revolution, but now resided in Greenock, Scotland.

### Franklin, 3 March

**John Early (N)      Thomas Arthur (N)**

On 4 June the state Convention's Committee of Privileges and Elections reported that there were no returns for Franklin County. Robert Williams, a Convention delegate from nearby Pittsylvania, informed the Committee that he had been at the Franklin County elections and that John Early and Thomas Arthur had been declared "duly elected" by the sheriff at the close of the poll. The Convention accepted the committee's recommendation to seat Early and Arthur. (See Convention Debates, 4 June, IV below.)

### Frederick, 4 March

**John Shearman Woodcock (Y)      Alexander White (Y)**

*Winchester Virginia Gazette, 18 January*<sup>1</sup>

☞ That the good people of this county may be more fully acquainted with the Plan of Government, proposed by the Federal Convention, it is requested there may be a general meeting held at the Court house, on the first *Tuesday* of Feb next, that those who are opposed to the plan will there declare their objections, and give the friends of it an opportunity of obviating them. Americans attend! the fate of an empire may depend on the vote of a day!

*Winchester Virginia Gazette, 29 February*

Public Notice is hereby given, that an Election will be held at the Court-House in Winchester, on the first Tuesday in March, being Court day, for two Members of Convention for this State.

*John Kerchevall,*  
(Dep. Sheriff, Fred.)

Feb. 28, 1788.

*Winchester Virginia Gazette, 7 March*

Tuesday last, being the day appointed for holding the election for two members to represent this county in convention;—at the close of the poll the numbers were as follow:

For	John S. Woodcock,	191
	Alexander White,	162
	John Smith <sup>2</sup>	117
	Charles M. Thruston,	71

Whereupon *J.S. Woodcock* and *Alex. White*, Esquires, were declared duly elected.

*John Shearman Woodcock to David Allason, 15 March (excerpt)<sup>3</sup>*

... We had a Warm contest at our Election.<sup>4</sup> the day prov'd very bad. of course but few of the Country people came in, which made much agst. me. However it ended as you'l see by the inclos'd Winchester paper. . . .

1. The *Gazette* repeated this item on 25 January and 1 February, and it was reprinted in three Pennsylvania and two Massachusetts newspapers by 27 February. Both Massachusetts reprintings omitted the last sentence.

2. Smith, a planter, represented Frederick in the House of Delegates, 1777–80, 1786–87.

3. RC, Allason Papers, Vi. Allason was a Falmouth merchant and brother of William Allason.

4. For a heated newspaper exchange that preceded the election, see Alexander White, *Winchester Virginia Gazette*, 22 and 29 February (RCS:Va., 401–8, 438–45).

**Gloucester, 3 March**

**Warner Lewis (Y)      Thomas Smith (Y)**

*Warner Lewis to Alexander Donald*

*Warner Hall, 22 December (excerpt)<sup>1</sup>*

... The more I contemplate the new constitution, as it is called, and the more I consider the situation of my country, the more I am persuaded of the necessity of making immediate trial of it. With this

idea, that I may have an opportunity of giving a vote for it, I have offered my services to the county I live in. Whether I shall be elected, or not, is a matter of some doubt. With enough to do at home, you will probably think, that it may be fortunate for me if I am rejected—and I really think so too—The mortification of rejection will by no means be a sore one to me. . . .

*John Page to Thomas Jefferson*  
*Rosewell, 7 March (excerpt)<sup>2</sup>*

. . . I have long wished for a leisure Hour to write to you, but really could not command one till now; when by means of an uncommon spell of severe Weather, & a deep Snow, I am caught at Home alone, having left my Family at York, to attend on the Election of Delegates to serve in Convention in June next—I came over, offered my Services to the Freeholders in a long Address which took me an Hour & an half to deliver it, in which I explained the Principles of the Plan of the foederal Constitution & shewed the Defects of the Confederation declaring myself a Friend to the former; & that I wished it might be adopted without losing Time in fruitless Attempts to make Amendments which might be made with more probability of Success in the Manner pointed out by the Constitution itself—I candidly confessed that I had been at first an Enemy to the Constitution proposed,<sup>3</sup> & had endeavoured to fix on some Plan of Amendments; but finding that Govr. Randolph, Col. Mason, & Col. Lee differed in their Ideas of Amendments, & not one of them agreed with me in Objections, I began to suspect that our Objections were founded on wrong Principles; or that we should have agreed; & therefore I set to work; & examined over again the Plan of the Constitution; & soon found, that the Principles we had applied were such as might apply to the Government of a single State, but not to the complicated Government, of 13, perhaps 30 States which were to be *united*, so as to be *one* in Interest Strength & Glory; & yet to be severally sovereign & independent, as to their municipal Laws, & local Circumstances (except in a few Instances which might clash with the general Good); that such a general Government was necessary as could command the Means of mutual Support, more effectually than mere Confederacies Leagues & Alliances, that is, a Government which for foederal Purposes should have all the Activity Secresy & Energy which the best regulated Governments in the World have; & yet that this, should be brought about, without establishg a Monarchy or an Aristocracy; & without violating the [pure?] Principles of democratical Governments. I say I confessed,

that, when I considered, that this was to be the Nature of the Government which was necessary to be adopted in the United States I found that the Objections which might be made [---] a single State thus governed, would not apply to this great delicate & complicated Machinery of Government, & that the Plan proposed by the Convention was perhaps the best which could be devised—I have run myself out of Breath in a long winded Sentence, & lost a deal of Time in telling you what I might as well have said in three Words, vizt—that after all my Trouble the Freeholders left me far behind Warner Lewis & Thos. Smith<sup>4</sup> on the Lists of Candidates. I had however this consolation, that I was not rejected on Account of my Attachment to the Constitution—for those two Gentlemen openly avowed the same Sentiments which I had declared in my Address to the People. Many of my Friends were very much mortified at the Disappointment we met with, & thought they comforted me by telling me of the extreme badness of the Weather which they said prevented many Freeholders from attending on the Election, but I comforted myself with the Reflection that I had adhered to my Resolution of treating the Freeholders like free Men; having never insulted them upon such Occasions by Solicitations & Caresses; & that they would now see clearly the Impropriety of engaging their Votes; & I comfort myself now, with the Reflection, that I shall have a little more Leisure to attend to my Affairs & to my Friends—I came Home that Night alone to prepare some of Mr. Burwell's & my own Papers for Business the next Day; when I was Caught by a heavy Snow which is still 9 Inches deep. That was Monday (our Ct. Day being now ye 1st. Monday) & this is thursday at Noon. The Thermr. has not been above 30 till yesterday, & now it is but 41 above 0 & the Wind has been high at N.W ever since Monday Mornng. . . .

1. RC, Jefferson Papers, DLC. This letter was an enclosure in Donald's letter to Thomas Jefferson of 1 January. Lewis (1747-1791), a planter whose Gloucester estate was called "Warner Hall," was a presidential elector in 1789.

2. RC, Jefferson Papers, DLC. Printed: Boyd, XII, 650-54. Page (1744-1808) and Jefferson, who had been students together at the College of William and Mary, were lifelong friends. Page, owner of "Rosewell" in Gloucester County, served in the House of Burgesses, 1771-73, and in the House of Delegates, 1781-84, 1785-87, 1788-89. He was a member of the Council of State and lieutenant governor, 1776-80, and was a member of the U.S. House of Representatives, 1789-97.

3. Contemporaries expressed different points of view about Page's attitude on the Constitution. On 7 December Henry Lee wrote James Madison that "The Pages are all zealous abettors of the constitution." Two days later, before he had received Lee's letter, Madison informed Jefferson that John Page was an opponent of the Constitution. But on 14 January Archibald Stuart wrote Madison that "Mr. Page of Rosewell has become a Convert." (See RCS:Va., 224, 227, 302.)

4. Smith, a planter and merchant, had attended the College of William and Mary. He was a justice of the peace and represented Gloucester in the House of Delegates, 1780-89, 1790-91, and Mathews County, 1792-96.

**Henrico, 3 March**  
**Edmund Randolph (Y)     John Marshall (Y)**

*Archibald Stuart to James Madison*

*Richmond, 2 November (excerpt)<sup>1</sup>*

... The Govr. on his return here was coolly received;<sup>2</sup> upon which it is said he discovd much anxiety, since ye Opposition to ye Constitution has been heard of from Dift parts of ye State he speaks with more confidence against what he calls ye Objectionable parts—He is a candidate for ye Convention, Wilkinson & Southall having cleared ye Coast for him<sup>3</sup> the former of whom is inimical to ye Govt. propos'd (tutis auribus Deposui).<sup>4</sup> . . .

*John Dawson to James Madison*

*Fredericksburg, 18 February (excerpt)<sup>5</sup>*

... there is scarce a doubt but Mr. Randolph will be elected in Henrico, altho "the Plain Dealer" thinks he ought not to be, as you will observe by the enclosd paper.<sup>6</sup> . . .

*Edmund Randolph to James Madison*

*Richmond, 29 February (excerpt)<sup>7</sup>*

My dear friend

... The election of Henrico commences on Monday. The persons proposed are Dr Foushee,<sup>8</sup> Marshall and myself. Nothing but a small degree of favor, acquired by me, independently of the constitution, could send me; my politicks not being sufficiently strenuous against the constn. Marshall is in danger; but F. is not popular enough on other scores to be elected, altho he is perfectly a Henryite. . . .

*Virginia Independent Chronicle, 5 March<sup>9</sup>*

Monday last came on at the courthouse, the election for two persons to represent the county of Henrico in the ensuing State Convention, to be held in this city in June next, to decide on the new Constitution. On the close of the poll, the votes stood as follows, viz.

Edmund Randolph,	373
John Marshall,	198
Dr. William Foushee,	187

So that his Excellency Edmund Randolph, and John Marshall, Esquires, were declared to be duly elected.

*Edmund Randolph: Account of the Henrico Election*  
*Richmond, 9 June*<sup>10</sup>

... that on the day of election of Delegates for the Convention, for the county of Henrico, it being incumbent upon him to give his opinion, he told the respectable freeholders of that county his sentiments: That he wished not to become a member of that Convention: That he had not attempted to create a belief, that he would vote against the Constitution: That he did really unfold to them his actual opinion; which was perfectly reconcileable with the suffrage he was going to give in favor of the Constitution. He then read part of a letter which he had written to his constituents on the subject, which was expressive of sentiments amicable to an Union with the other States.

1. RC, Madison Papers, DLC. Printed: Rutland, *Madison*, X, 234–35. Another portion of this letter is printed in Orange County Election (below).

2. See RCS:Va., 19n–20n, 70, 133.

3. Presumably “cleared ye Coast” meant that Nathaniel Wilkinson and Turner Southall had agreed not to run for the Convention. Wilkinson represented Henrico in the House of Delegates, 1776–95. Southall was a Henrico delegate, 1778–79, 1780–85, and a senator from the district which included Henrico, 1785–91.

4. Horace’s *Odes*, Book I, ode XXVII: “*quid quid habes, age deponere tuis auribus.*” Translation: “Then out with it! Our ears are safe” (James Michie, *The Odes of Horace* [London, 1964], 68–69). In the remainder of the letter, Stuart described the action in the Committee of the Whole of the House of Delegates on a petition calling for repeal of the port bill. He wrote that George Mason “began to thunder, to ye Great terror of all its friends.” Mason, he said, was “some times much admired for great strength of Mind Originality of Expression & for ye Comprehensive view which he takes of his subjects.” But Stuart confided “I fear ye Effects of age have sometimes been discoverable in him.”

5. RC, Madison Papers, DLC. See Orange County Election (below) for the entire letter.

6. For “A Plain Dealer” (Spencer Roane), see the *Virginia Independent Chronicle*, 13 February (RCS:Va., 363–67). No enclosure has been found.

7. RC, Madison Papers, DLC. For the entire letter, see RCS:Va., 436–37.

8. William Foushee, a physician, was the first mayor of Richmond, 1782–83.

9. This item was reprinted in the *Norfolk and Portsmouth Journal*, 12 March, and in eight out-of-state newspapers by 3 April: N.Y. (3), Pa. (4), Md. (1). Four of the reprints reported that Randolph received 375 votes, while the *Carlisle Gazette*, 19 March, reported that he received 573 votes. The Petersburg *Virginia Gazette*, 6 March (not extant), also printed a report of the election that was reprinted in the Charleston *Columbian Herald*, 31 March, with these vote totals: Randolph, 337; Marshall, 187; and Foushee, 168. The news of the election of Randolph and Marshall was also reported in an “Extract of a letter from a gentleman of veracity dated Richmond, March 6th, 1788,” in the Philadelphia *Federal Gazette* on 20 March (reprinted in the *New Haven Gazette*, 27 March, and the *Pittsburgh Gazette*, 5 April).

10. On 9 June in a speech in the Convention, Edmund Randolph described the election of the Henrico County delegates. For the entire speech, see Convention Debates, IV below.

**King George, 6 March**  
**Burdet Ashton (Y)      William Thornton (Y)**

On 18 February John Dawson reported to James Madison that Joseph Jones was a candidate for the Convention from King George County but that "his election is doubtful" (Orange County Election, below). Jones was not elected, much to the satisfaction of James Duncanson, who wrote James Maury that "K: George have got good Men; old Jos Jones endeavour'd to get in, but fortunatly was disapointed" (11 March, RCS:Va., 479). James Hunter, Jr., reported that "King George left out Mr. Jones, both the members are for the Constitution" (to Marianna Hunter, 8 March, Hunter Family Papers, ViU).

**Louisa, 10 March**  
**William Overton Callis (Y)      William White (N)**

*Alexander Macaulay to Francis Jerdone, Jr.*  
*Richmond, 3 November (excerpt)<sup>1</sup>*

. . . It is strongly recommended to Colo Morris<sup>2</sup> to stand a Candidate for the next Convention; & I am sure it will give you pleasure to give him your Vote & Interest: We want such Men, & if they do not now stand forth, Anarchy & confusion must prevail, & We with our posterity are slaves. . . .

*Petition of Richard Morris*

On 3 June Henry Lee of Westmoreland County presented to the state Convention a petition from Federalist Richard Morris complaining that Antifederalist William White of Louisa County was not duly elected to serve in the Convention. The petition was read and referred to the Committee of Privileges and Elections, which reported three resolutions on 7 June. Morris was required within two days to deliver to White a list of those voters whom he was challenging, and White was required to deliver a similar list to Morris within a week. Witnesses for both men were required to give sworn depositions in Louisa County. The Committee would reconsider the matter on 18 June.

On 16 June four commissioners met in Louisa County to examine witnesses and take depositions on the disputed election. Since White had not contested the eligibility of any of Morris' voters, no depositions were anticipated supporting the incumbent. The commissioners, however, took depositions from witnesses who testified that some of White's votes came from unqualified voters. Because neither Morris nor his agent attended the hearing, William Smith, Jr., one of White's two agents, argued that the proceedings should not take place. Three of the four commissioners disagreed, and they continued the hearing.

On the same day, Smith wrote to White describing the proceedings. His letter and the commissioners' report were read in the Convention on 21 June. Smith's account evoked responses from the commissioners and

others. All of these accounts were published in the *Virginia Gazette and Weekly Advertiser*, 4 September 1788. (See "Depositions on the Disputed Louisa County Election," Convention Debates, 21 June, IV below.)

On 21 June the Committee of Privileges and Elections reported. The vote at the close of the poll stood at 199 for White and 195 for Morris. Morris followed the instructions of the Committee and challenged a number of voters who had cast ballots for White. Generally, Morris asserted that these voters did not own property or that they had not received deeds for their property. White failed to give Morris a list of challenged voters. The Committee disqualified fourteen of White's voters; consequently, Morris was declared the winner by a vote of 195 to 185.

The Convention recommitted the report, instructed the Committee to take further evidence from the witnesses, and made a final decision on 26 June. Sensing that the delay would make the matter moot, a motion was made and the Convention ordered that the Committee be discharged from considering Morris' petition. White's election stood. (For the documents dealing with this contested election, see Convention Debates, 3, 7, and 21 June, IV below.)

1. RC, Jerdone Papers, ViW. Born in Glasgow, Macaulay (1754–1798) was a Yorktown merchant. His brother-in-law, Francis Jerdone (1756–1841), the eldest son of one of the first merchants in Louisa County, inherited an interest in his father's store and iron forge.

2. Richard Morris (c. 1746–1821), a wealthy merchant and planter, served as a provisioner for the Continental Army, 1778–80, and as the state coordinator of the grain tax, 1781–82. He represented Louisa in the House of Delegates, 1788–89.

### Orange, 24 March

**James Gordon, Jr. (Y)      James Madison (Y)**

Two days after the Virginia legislature called the state Convention, Archibald Stuart implored James Madison to be a candidate from Orange County (2 November, below). Madison, however, felt that those who had a "hand in preparing and proposing" the Constitution should not make the final decision respecting its ratification. But his scruples were overcome as he saw that some Constitutional Convention delegates from other states were being elected to state conventions; he was also concerned that much of the opposition to the Constitution was based on misunderstandings. Madison felt that, as a delegate to the state Convention, he might "contribute some explanations and informations which may be of use." Therefore, he authorized his brother to let it be known that "I shall not decline the representation of the County if I should be honoured with its appointment" (Madison to Ambrose Madison, 8 November, below).

Madison's friends asked him to return home from New York, where he was serving as a delegate to Congress. On 7 December Henry Lee urged Madison to return in order to "secure" his election, and two weeks later he asked him to "stop in its progress" the opposition to his election regardless of "delicacy or any other motive" (7, c. 20 December, West-



moreland County Election, both below). Madison's father wrote him on 30 January that opposition to the Constitution was growing, and he urged his son to return as early in March as possible. Madison was warned that he risked defeat if he did not return. Indeed, Madison's "Friends and many others who are wavering on the Constitution" wanted "Sentiments from your own mouth which they say will convince them of the necessity of adobpting it" (James Madison, Sr., to Madison, 30 January, and William Moore to Madison, 31 January, both below. See also Edmund Randolph to Madison, 3 January, and Archibald Stuart to Madison, 14 January, RCS:Va., 284, 302.).

By 20 February Madison decided to return to Virginia by the end of the month. He left New York on 3 or 4 March, stopped at Mount Vernon from the 18th to the 20th, and arrived home on 23 March. In a letter, Madison was told by Joseph Spencer that there was strong opposition to the Constitution among the Baptists. Tradition has it that Madison met the Reverend John Leland on his way home and persuaded him to accept the Constitution, thereby winning the support of the Baptists. (See Madison to Thomas Jefferson, 20 February, Rutland, *Madison*, X, 526; Madison to George Washington, 20 February, below; *Washington Diaries*, V, 286-87; and Joseph Spencer to Madison, 28 February, RCS:Va., 424-27.)

On the day of the election, Madison addressed a large crowd at the county courthouse for the first time in his life and spoke for an hour and forty-five minutes. He and James Gordon, Jr., were elected. Madison believed that "it is very probable that a very different event would have taken place as to myself if the efforts of my friends had not been seconded by my presence" (James Duncanson to James Maury, 8 May, and Madison to Eliza House Trist, 25 March, both below).

*Archibald Stuart to James Madison*  
*Richmond, 2 November (excerpt)*<sup>1</sup>

Inclosed are ye Resolutions of Virginia on the subject of ye foederal Government—It is generally considered necessary that you should be of the convention, not only that ye Constitution may be adopted but with as much unanimity as possible—

for gods sake do not disappoint the Anxious expectations of yr friends & let me add of yr Country. . . .

*James Madison to Ambrose Madison*  
*New York, 8 November (excerpt)*<sup>2</sup>

Dear brother

Having mislaid your last favor,<sup>3</sup> I can not acknowledge it by reference to its date. It contained two requests, the one relating to Mr. House's rule of calculating the weight of the Tobacco; the other to my being a candidate in Orange for the Convention. In answer to the first point I inclose the rule exemplified. If this should not suffice, I

will send you a calculation in detail for the whole account. In answer to the second point, I am to observe that it was not my wish to have followed the Act of the General Convention into the Convention of the State; supposing that it would be as well that the final decision thereon should proceed from men who had no hand in preparing and proposing it. As I find however that in all the States the members of the Genl. Convention are becoming members of the State Conventions, as I have been applied to on the subject by sundry very respectable friends, as I have reason to believe that many objections in Virginia proceed from a misconception of the plan, or of the causes which produced the objectionable parts of it; and as my attendance at Philadelphia, may enable me to contribute some explanations and informations which may be of use, I shall not decline the representation of the County if I should be honoured with its appointment. You may let this be known in such way as my father & yourself may judge best. I shall be glad to hear from [you] on the subject, and to know what competition there will probably be and by whom. . . .

*Lawrence Taliaferro to James Madison*  
*Rose Hill, 16 December<sup>A</sup>*

I recd. your vary Frendly Letter from New york sumtime ago & Am Much Oblige to you for the Information you gave Me of My Nephu John Taliaferro at Princetown—I am sorry to inform you that the Federal Sistum is ruffly Handeld by sum vary Able Men in this State tho. we have sum vary good & Able Men that are Friends to that & thear Cuntary & Wish it to be Adopted as spedily as Posable I am inform'd that that Excelent & good Man Genl. Washington has Offer'd himself for the Spring convention<sup>5</sup> & it is the sincere Wish & desier of Myself & a Grate Many others that you will Also represent the Peopel of this County in the Spring Convention & we Earnestly Beg that you will be hear sum time before the Elextion for even those that are Oppos'd to the Federal Sistum wish to have an Opportunity of conversing with you on it—I dare say you will be graty suppd. to hear that it is report'd that you Are Opos'd to the Sistum & I was told the other day that you ware Actually writing a Pece against it—I am a vary pore Penman & dont wish to take up two Much of you time in reding a Long Letter or I could give you a grat many More Instances of the Rancor of the Enemes to Peac & Good Government & will only repet our earnest desier that you will be hear a Week or two before the Elextion by which Menes I make no doubt but the Citisens of this state will be prevented from being led into an Error by a few Men that seme vary earnest in doing it—

*Joseph Jones to James Madison*  
*Richmond, 18 December (excerpt)*<sup>6</sup>

... We are told you mean to come in and give us your assistance in the Convention. I hope you will do so. Publius is variously ascribed to M-d-n-H-lt-n-J-y. It is certainly among the first publications on the subject of the N. Constitution of Government. What has been done by the states on the business and when do their Conventions assemble.

*Henry Lee to James Madison, c. 20 December (excerpt)*<sup>7</sup>

... Your county is divided like many others in their sentiments—Barber & Burnley are warmly opposed & may perhaps consider it their duty to prevent your election—This you ought to apprehend & ought without respect to delicacy or any other motive stop in its progress—

Then return soon among them & use your endeavors to secure your election—If you think you may fail in Orange several countys in Kentucky would on application by letr. elect you. . . .

*Andrew Shepherd to James Madison*  
*Orange, 22 December (excerpt)*<sup>8</sup>

With pleasure not long since I heard of your welfare of which I sincerely wish a continuance, from your last, it has been intimated to your freinds in this County, that it will be agreeable to you to represent them in the Convention, which I think in my own opinion will meet with a general approbation, but as there is no guarding against artfull persons from injecting their poison into the unwarie, I would beg leave to recommend your presence as soon as you conveniently could. I have not as yet hear'd of any other Candidate but your freind Majr. Moore,<sup>9</sup> Mr. J. G.<sup>10</sup> declines prepares himself for the Assbly, and am pretty certain that youl. both meet with his influence—I think at present there are but few in this County agt. the new Constitution, it has lately in Richdn been much opposed but since I have been informed that its gaining freinds. . . .

*Edmund Randolph to James Madison*  
*Richmond, 3 January (excerpt)*<sup>11</sup>

... You must come in. Some people in Orange are opposed to your politicks. Your election to the convention is, I believe, sure; but I beg you not to hazard it by being absent at the time. . . .

*James Madison, Sr., to James Madison, 30 January (excerpt)*<sup>12</sup>

I have deferred writing to you till I saw our Delegates after their return from the Assembly, that I might more fully inform you of their sentiments of the proposed constitution. I have only seen Majr. Burnley at Court on Monday last, but did not hear him say any thing about it; He disapproves of it, but says very little about it, probably, as he does not intend to offer his service for the convention, he may hurt his interest in the election for Delegates to the Assembly, for which he intends to offer, if he opposes the adoption of the new Constitution too warmly.—Col. Barbour I have not seen, he was not at Court; probably was preparing for his Mothers funeral, who was to be interred the day after. He is much opposed to it and is a candidate for the Convention.<sup>13</sup> I believe there were but few that disapproved of it at first, in this County; but several being at Richmond with their Tobo. at the time the Assembly was sitting, & hearing the many objections made to it, altered their opinions, & have influ[en]ced some others who are no better acquainted with the necessity of adopting it than they themselves; And the pieces published against it, have had their intended effect with some others.

The Baptists are now generally opposed to it, as it is said; Col. Barbour has been down on Pamunky amongst them, & on his return, I hear, publicly declared himself a candidate, I suppose, on the encouragement he met with from the Antifederalists.<sup>14</sup> I do not know at present any other Candidates but yourself & Mr. Gordon, who is a warm friend to the Constitution, & I believe no others that are for it will offer. I think you had better come in as early in March as you can; many of your friends wish it; there are some who suspends their opinion till they see you, & wish for an explanation, others wish you not to come, & will endeavor to shut you out of the Convention, the better to carry their point. Mr. R H. L.s Letter to the G—r.<sup>15</sup> is much approved of by some, & as much ridiculed by others; and so is the reasoning & representation of the minority of the Pennsylvania Convention.<sup>16</sup> . . .

*William Moore to James Madison*  
*Orange, 31 January*<sup>17</sup>

From the foregoing information of your Father of the Fluctuating Sentiments of the Freeholders of this County on the Constitution proposed by the Convention at Philadelphia and the Arts of some Men in this County to mislead the People whose Interest you know are repugnant to a Governmt. that will Administer Justice, safety, protec-

tion, and true Liberty to the Good and Virtuous Citizens of America and as you well know the disadvantage of being absent at Elections to those who offer themselves to serve the Public I must therefore intreat and conjure you nay commd. you, if it was in my Power, to be here in February or the first of March Next if you do, I think your Election will be certain, (if not I believe from reports you ~~will be left out~~ it will be uncertain) and you will in that case be able to silence the disaffected and give that assistance to the Constitution that your knowledge of it and the Necessity of such Establishment to the well being and future Prosperity of America—However Sir be assured that the Friends of the Constitution will promote your Interest at any rate. but let me repeat it again, as a Lover of your Country, pray dont disappoint the wishes of your Friends and many others who are wavering on the Constitution that are anxiously waiting for an Explanation from you in short they want your Sentiments from your own mouth which they say will convince them of the necessity of adobpting it—  
P.S. I repeat again come—

*James Gordon, Jr., to James Madison, 17 February*<sup>18</sup>

Being favd. by Colo. Monroe with a sight of your letter of the 27 January<sup>19</sup> and finding no mention therein of your being in our county in a short time, [I] take the Liberty as yr. Friend to solicit your attendance at march Orange court—I am induced to make such a request as I believe it will give the county in general great satisfaction to hear your sentiments on the new Constitution—your Friends are very solicitous for your appointment in the convention to meet in June next—I trust were it not practicable for you to attend your election will be secured, but your being present would not admit a doubt—Colo. Thomas Barbour, Mr. Charles Porter<sup>20</sup> & myself enter the list with you the two former gentlemen are exceedingly averse to the adoption of the constitution in this state and being acquainted with them you will readily determine, no means in their power will be wanting to procure a seat in convention—The sentiments of the people of Orange are much divided the best men in my judgement are for the constitution but several of those who have much weight with the people are opposed, Parson Bledsoe & Leeland with Colo. Z. Burnley<sup>21</sup>—upon the whole sir I think it is incumbent on you with out delay, to repair to this state; as the loss of the constitution in this state may involve consequences the most alarming to every citizen of America

*John Dawson to James Madison*  
*Fredericksburg, 18 February*<sup>22</sup>

It is now several months since I was honored with a letter from you—during the recess of Congress, while your attention was not closely confin'd to public business, and while the situation of the Union must have furnishd you with daily information which would have been interesting to you, I flattered myself you would not have neglected your friend—

The approaching elections are the subject of general conversation in this state at this time, and uncommon exertions are made by all parties to have elected those persons whose sentiments agree with their own—in Orange I am inform'd there are three candidates besides yourself, and that the election is very doubtful, as two of the Gentlemen, Barber and Porter, have declared their opposition to the proposed Government—I must therefore join your other friends and entreat your attendance at the election—Mr. Mason will *probably* be returned for Stafford, as the people have signed a petition and sent it to him, requesting his services—he is however warmly opposed by Colo Carter and Mr Fitzhugh—there is scarce a doubt but Mr. Randolph will be elected in Henrico, altho "the Plain Dealer" thinks he ought not to be, as you will observe by the enclosed paper<sup>23</sup>—Mr. Jones offers for King George—his election is doubtful—in this county [Spotsylvania] the candidates are Genl. Spotswood, Mr. Page<sup>24</sup> Mr. Monroe and myself—it is impossible to say who will be elected—the contest will probably be between the three last mentioned— Never perhaps was a state more divided than Virginia is on the new Constitution—its fate appears to hang in a great measure on the decision of Massachusetts bay—should the convention of that state adjourn without doing any thing decisive, or should amendments be proposed, I think, Virginia will go hand in hand with her—should *she* adopt, I cannot say what will be done—but should *nine states* agree to it in toto, I apprehend there will be a decided majority in this state for accepting it—whatever the event may be I sincerely pray that my countrymen may act with moderation, altho I very much doubt it, and that they may weigh the subject with that coolness and impartiality, which its importance requires—

*James Madison to George Washington*  
*New York, 20 February (excerpt)*<sup>25</sup>

I am just favored with yours of the 7th. inst. and will attend to your wishes as to the political essays in the press.<sup>26</sup>

I have given notice to my friends in Orange that the County may

command my services in the Convention<sup>27</sup> if it pleases. I can say with great truth however that in this overture I sacrifice every private inclination to considerations not of a selfish nature. I foresee that the undertaking will involve me in very laborious and irksome discussions; that public opposition to several very respectable characters whose esteem and friendship I greatly prize may unintentionally endanger the subsisting connection; and that disagreeable misconstructions, of which samples have been already given, may be the fruit of those exertions which fidelity will impose. But I have made up my determination on the subject; and if I am informed that my presence at the election in the County be indispensable, shall submit to that condition also; though it is my particular wish to decline it, as well to avoid apparent solicitude on the occasion, as a journey of such length at a very unpleasant season.<sup>28</sup> . . .

*James Madison to Edmund Randolph*  
*New York, 3 March (excerpt)<sup>29</sup>*

My dear Friend

. . . Col. Heth arrived a day or two ago with the proceedings of the Comissrs. They will be laid before Congress to day. I have been detained from setting out for Virga. by this circumstance<sup>30</sup> having fixed on yesterday for the purpose. I shall probably get away tomorrow, and possibly this afternoon. Yrs. Affey.

*Francis Taylor Diary*  
*Midland, 24 March<sup>31</sup>*

I slept very little last night, had headach & high fever and continue very unwell to day.

Went to Election of Delegates for Convention. when the Poll was closed the Numbers stood as follows<sup>32</sup>

James Madison	202
James Gordon	187
Thomas Barbour	56
Charles Porter	34

Col Madison addressed himself in a Speech to the people in defence of the New Constitution, and there appeared much satisfaction after the Election was determined.

Very cold, windy & drifts of snow but not to show on ground.

*James Madison to Eliza House Trist*  
*Orange, 25 March*<sup>33</sup>

The badness of the roads & some other delays retarded the completion of my journey till the day before yesterday. I called at Col Syms in Alexanda.<sup>34</sup> but had not the pleasure of seeing either him or his lady. He was not at home though in Town and I was so hurried that I could halt a few minutes only; and she was confined to her chamber by indisposition.—I had the satisfaction to find all my friends well on my arrival; and the chagrin to find the County filled with the most absurd and groundless prejudices against the foederal Constitution. I was therefore obliged at the election which succeeded the day of my arrival to mount for the first time in my life, the rostrum before a large body of the people, and to launch into a harangue of some length in the open air and on a very windy day. What the effect might be I cannot say, but either from that experiment or the exertion of the foederalists or perhaps both, the misconceptions of the Government were so far corrected that two federalists one of them myself were elected by a majority of nearly 4 to one. It is very probable that a very different event would have taken place as to myself if the efforts of my friends had not been seconded by my presence.<sup>35</sup> The elections as yet are not sufficiently known to authorize any judgment on the probable complexion of the Convention. As far as I have heard of them they are not discouraging; but I have heard little from the great district of Country which is said to be most tainted with antifederalism. I am so taken up with company that I cannot at present add more than my sincerest wishes for your happiness. Adieu.

*John Vaughan to John Dickinson*  
*Philadelphia, c. 19 April (excerpt)*<sup>36</sup>

... I have reason to be confirmed in my opinion that Maryland will decide favorably—& to lose my doubts respectg Virginia—Two anecdotes have been related on the Subject of the Election of this State—Madisons County was against it. They had declared they would confide in him on *any other* point—He arrived the day before the Election, addressed them at the Election & convinced a Majority that he had *acted as he ought* & that the Constitution ought to be Adopted.—A Convincing proof that rational Means will not fail in their effect.—

Mr Grayson adressed in his County [Prince William] *against it* violently, & observed that the example of the Paltry State of Pennsylvania



& Still more Paltry Estate of Delaware, ought not to bind the Ancient dominion of Virginia—I mention this merely to *mark the Man*. . . .

*James Duncanson to James Maury*  
*Fredericksburg, 8 May (excerpt)*<sup>37</sup>

. . . it is supposed there is a Majority of Federalists elected in this State, but if it is so, I'm afraid it is a very small one, & really it is uncertain how it may go in Virginia—Your friend Maddison came in the day before the Election in Orange, & when the People assembled converted them in a speech of an hour & three quarters, delivered at the Court house door before the Pol opened, so that he & James Gordon were chosen by a large majority, to the great mortification of Tom Barbour & that set who got but very few votes. . . .

1. RC, Madison Papers, DLC. Printed: Rutland, *Madison*, X, 234–35. Another portion of this letter, dealing with Edmund Randolph, is printed in Henrico County Election (above). On 2 December and 14 January, Stuart repeated his plea that Madison stand for election to the Convention (RCS:Va., 196, 302).

2. RC, Madison Collection, NN. Printed: Rutland, *Madison*, X, 243–45. James and Ambrose Madison (1755–1793) were brothers.

3. Letter not found.

4. RC, Madison Papers, DLC. Taliaferro (1734–1798) was a justice of the peace for Orange County. “Rose Hill” was Taliaferro’s plantation.

5. See the *Pennsylvania Gazette*, 21 November, in Fairfax County Election (above).

6. RC, Madison Papers, DLC. Printed: Rutland, *Madison*, X, 329–30.

7. RC, Madison Papers, DLC. For the complete letter, see RCS:Va., 248–49. See also Lee to Madison, 7 December, Westmoreland County Election (below).

8. RC, Madison Collection, NN. Printed: Rutland, *Madison*, X, 344–45. Another excerpt from this letter is printed in Culpeper County Election (above).

9. William Moore. (See Moore to Madison, 31 January, below.)

10. James Gordon, Jr.

11. RC, Emmet Collection, NN. For a longer excerpt, see RCS:Va., 284.

12. RC, Madison Papers, DLC. Printed: Rutland, *Madison*, X, 446–47. James Madison, Sr. (1723–1801), was the father of James Madison. On the verso is William Moore to James Madison, 31 January (immediately below).

13. Richard Henry Lee was pleased to hear that the “sensible and honest” Thomas Barbour was a candidate (Lee to James Gordon, Jr., 26 February, RCS:Va., 420). For other commentaries on Barbour’s candidacy, see Joseph Spencer to James Madison, 28 February, and James Duncanson to James Maury, 11 March (RCS:Va., 424, 479).

14. In his diary for 26 February, Francis Taylor (note 31, below) wrote: “Much talk amongst the people about the Constitution, the Baptists and ignorant part of them against it” (Vi). For more on the Baptist opposition to the Constitution, see Joseph Spencer to James Madison, 28 February (RCS:Va., 424–26).

15. See Richard Henry Lee to Edmund Randolph, 16 October (RCS:Va., 59–67).

16. For the “Dissent of the Minority of the Pennsylvania Convention,” 18 December, see CC:353 and RCS:Va., 401n.

17. RC, Madison Papers, DLC. Moore’s letter was written on the verso of James Madison, Sr., to James Madison, 30 January (immediately above). Moore (1740–1802), a planter and close friend of the Madisons, represented Orange in the fifth revolutionary

convention, 1776, and in the House of Delegates, 1776–80, 1781–82, 1783–84. He was county sheriff, 1784–89.

18. RC, Madison Papers, DLC.

19. Madison's letter to James Monroe, 27 January, has not been found.

20. Porter, a planter, represented Orange in the House of Delegates, 1777–80, 1784–87.

21. Zachariah Burnley, a planter, represented Bedford in the House of Burgesses, 1758–61, and Orange in the House of Burgesses, 1766–68, 1772–73, and in the House of Delegates, 1780–81. He was the father of Hardin Burnley.

22. RC, Madison Papers, DLC.

23. "A Plain Dealer" (Spencer Roane) appeared in the *Virginia Independent Chronicle*, 13 February (RCS:Va., 363–67). No enclosure has been found. Roane was Patrick Henry's son-in-law.

24. Mann Page, Jr.

25. RC, Washington Papers, DLC. Printed: Rutland, *Madison*, X, 526–27. Another excerpt is published in RCS:Va., 279–81.

26. This is a reply to Washington's letter of 5 February (RCS:Va., 279–80), in which he asked Madison to forward to him three or four copies of the book edition of *The Federalist* as soon as it was published.

27. See James Madison to Ambrose Madison, 8 November (above).

28. Washington replied that Madison's decision to return to Orange County "will give pleasure to your friends," as it was necessary for him to attend the election in person (2 March, RCS:Va., 452).

29. RC, Madison Papers, DLC. Printed: Rutland, *Madison*, X, 554–55. On the same day, Madison wrote similar letters to Edmund Pendleton (*ibid.*, 554) and George Washington (RCS:Va., 454–55).

30. On 10 October 1780 Congress passed a resolution allowing states to be reimbursed for "the necessary and reasonable expences" incurred in subduing or maintaining control over territory that might eventually be ceded to the United States. On 3 March 1788 William Heth submitted Virginia's claim for expenses incurred in capturing and maintaining control over the Northwest Territory. On the same day Congress appointed a committee to consider the claim (JCC, XVIII, 915; XXXIV, 77n, 134–35; and Rutland, *Madison*, X, 353n–54n).

31. MS, Vi. Taylor (1747–1799) was James Madison's second cousin. "Midland" was Taylor's Orange County plantation.

32. On 2 April, the Winchester *Virginia Gazette* printed these vote totals, indicating that Madison and Gordon were Federalists and their opponents Antifederalists. The *Virginia Herald* on 27 March reported totals for only the top three candidates, but transposed Gordon's total to read 178.

33. RC (microfilm), ViU. The original was owned by Mrs. English Showalter of Roanoke, Va., in 1976. See Rutland, *Madison*, XI, 6n, for information on how the recipient was identified. Trist was the daughter of Mary House, a widow who ran a boardinghouse at which Madison stayed when in Philadelphia.

34. Charles Simms.

35. On 7 April Cyrus Griffin, attending Congress in New York, wrote Madison: "We all much rejoiced to hear of your election, especially as your being present, we are told, was absolutely necessary to counteract some unwarrantable proceedings" (Rutland, *Madison*, XI, 11). Edward Carrington also congratulated Madison "upon the success which attended your efforts to turn the Sinners of Orange from their wicked ways" (8 April, III below).

36. RC, Dickinson Papers, Library Company of Philadelphia. This unsigned and undated letter is addressed to "Mr Thomas," but it is part of a series of letters from Vaughan to Dickinson. For the identification of the author and recipient, and the dating of the letter, see CC:694, where it is printed in its entirety. Vaughan (1756–1841), a

Philadelphia merchant, had emigrated to the United States from England in 1782. Dickinson (1732–1808), a wealthy Delaware lawyer and landowner, was one of the leading figures in the revolutionary movement from 1765 when he served in the Stamp Act Congress. He wrote many petitions and essays in the Revolutionary cause, including his series “The Letters from a Farmer in Pennsylvania,” 1767–68. He voted against independence as a Pennsylvania delegate to Congress in 1776; chaired the committee that drafted the Articles of Confederation; served as president of Delaware, 1782–83, and as president of Pennsylvania, 1783–85; and represented Delaware in the Annapolis Convention and the Constitutional Convention.

37. RC, Maury Papers, ViU. Maury, a Fredericksburg merchant who had moved to Liverpool in 1786, endorsed the letter “received the 2 July/Answered/31 July.” For another excerpt, see Culpeper County Election (above).

**Powhatan, 20 March**  
**William Ronald (Y)      Thomas Turpin, Jr. (N)**

*Edward Carrington to Henry Knox*

*Manchester (opposite Richmond), 10 February (excerpt)<sup>1</sup>*

... My situation here is in the Midst of Mr. Henries influence, and I find he has pretty well prepared the people for being his blind followers—his demagogues are loud in their clamours against the Constitution, professing a determination to reject unless amendments can be had even at the hazard of standing alone—I cannot learn that he has ever specified the amendments he would have, and therefore, it is fairly to be concluded, his views are a dismemberment of the Union—I have not seen him, but shall shortly pay him a visit.

without consulting the extent of my influence, or the hazards of facing the Torrent, I have thought it my duty to make an unequivocal declaration of my sentiments in the Counties with which I am immediately connected,<sup>2</sup> and shall endeavour to fix the minds of the people upon the preservation of the Union as the first object, and to bring them as much farther as I can—it may, at least, be in my power to bring them into instructions which will oblige their Members to separate from Mr. Henry at the point of Nine States having adopted. It is interesting that the elections should be turned upon Men of real discernments—weak Men may go into the convention friends to the Measure, and afterwards be drawn into the opposition by Management. . . .

*Edward Carrington to James Madison*

*Richmond, 8 April (excerpt)<sup>3</sup>*

... The Rage in Powhatan was, a few days before the election, as high as [any]where, but by the day of trial, the Town was so changed that Mr. Turpin<sup>4</sup> who had set out in the opposition declared for the

constitution, and is elected under that declaration. his associate Mr. Ronald<sup>5</sup> had kept his sentiments to himself, but on that day, in a speech to the people, said he had done so, only to avoid the misrepresentations which he found candid Men subjected to, and, in decided terms pronounced the Constitution a great and good work which, if adopted would give happiness & prosperity to America, and that should it be rejected a disunion must ensue to the utter ruin of the whole. Mr. Turpin was the old Member for the County, and his opposition occasioned me, contrary to my more early intention, to declare, at a late period for the Convention,<sup>6</sup> but having taken the same ground with myself, at the day, his old standing saved his election by seven votes—I am however content as he is a respectable Man, and the County, from being *anti*, are become entirely federal. . . .

1. RC, Knox Papers, MHi. Printed: CC:520. Carrington wrote a similar letter on the same day to James Madison (RCS:Va., 359–61), but did not mention the prospect of paying Henry a visit.

2. Chesterfield, Cumberland, and Powhatan.

3. RC, Madison Papers, DLC. For the rest of the letter, see III below.

4. Thomas Turpin, Jr., a planter, represented Powhatan in the House of Delegates, 1786–88.

5. On 10 February Carrington described William Ronald's views on the Constitution as "extremely mysterious, his objections are made in terms that would be taken for absolute in all events, yet he is alarmed at the probable extent of Mr. Henries views, & professes a determination to do nothing which may even endanger the Union" (to James Madison, RCS:Va., 359–60).

6. Because of Patrick Henry's influence, Carrington felt "more anxiety upon the present occasion than ever I felt during the War. It has led me to commit myself in an election for a County where the majority are opposed to me in sentiment, and it is highly probable I shall be rejected, yet I could not tamely submit the measure to its fate without such an effort" (Carrington to Henry Knox, 13 March, RCS:Va., 492).

### Prince Edward, 17 March

Patrick Henry (N)      Robert Lawson (N)

*John Blair Smith to James Madison*

*Hampden Sydney, 12 June (excerpt)*<sup>1</sup>

. . . I should gladly have attended the discussion of that great question which you have before you, but a multiplicity of domestic engagements prevents me. You will have perceived how unfortunately this County is represented in Convention. Before the Constitution appeared, the minds of the people here were artfully prejudiced against it, so that all opposition at the election for delegates to consider it, (against Mr. Henry,) was in vain.<sup>2</sup> That gentleman has descended to lower artifice & management upon the occasion than I thought him capable of. His gross, & scandalous misrepresentations of the New-

Constitution, & the design of its enlightened authors awaken contempt & indignation. I have not been able for my part to suppress such feelings, & have incurred thereby some popular odium. However by steady perseverance I find that the tide is turning at length. The people think more favourably of the New System, & there are some few professed converts from their former sentiments against it. If Mr. Innes,<sup>3</sup> has shewn you a Speech of Mr. Henry to his Constituents, which I sent him, you will see something of the method, which that gentleman has taken to diffuse his poison. The idea of Virginia standing independent of the other states, or forming a partial confederacy or a foreign alliance is more openly avowed by some people in this quarter, than any where else, & I am certain the sentiment originated with the old Govr. It grieves me to see such great natural talents abused to guilty purposes—He has written letters repeatedly to Kentuckey & as the people there are alarmed with an apprehension of their interests being about to be sacrificed by the Northern States; I am convinced that it has been owing to a story which I have heard Mr. H. tell, respecting the measure proposed in Congress for a perpetual relinquishment of the Navigation of the Mississipi to the Spaniards. He has found means to make some of the best people here believe that a religious establisht. was in Contemplation under the new govt.—He forgets that the Northern States are more decided friends to the voluntary support of Christian Ministers, than the author or at least, the warm abettor of the Assessment bill in this State.<sup>4</sup> But I detain you too long with a disagreeable subject. I conclude, with wishing you success in your meritorious effort to establish freedom & happiness on fixed & rational principles

1. RC, Madison Papers, DLC. Printed: Rutland, *Madison*, XI, 119–21. Smith (1756–1799), a Presbyterian minister, graduated from the College of New Jersey (Princeton) in 1773. He taught at Hampden-Sydney College, 1775–79, was ordained in 1779, and served as the president of the college, 1779–91.

2. For an earlier confrontation between Smith and Henry, see John Dawson to James Madison, 25 September (RCS:Va., 16).

3. James Innes was attending the state Convention as a delegate from Williamsburg. Smith's letter to Innes has not been found.

4. In 1784 and 1785 Henry was one of the principal supporters of the Assessment Bill, which would have provided tax support for "teachers of the Christian religion." James Madison led the opposition.

**Prince William, 3 March**  
**William Grayson (N)      Cuthbert Bullitt (N)**

*Hugh Williamson to John Gray Blount*  
*New York, 3 June (excerpt)*<sup>1</sup>

... Col: Graysons Trope of Rhetoric was more to the feelings of Virginians. He harangued the People at the Court House having in his Hand a snuff Box hardly so broad as a Moidore. The Point of

finger and Thumb are inserted with difficulty. Perhaps said he you may think it of Consequence that some other States have accepted of the new Constitution, what are they? when compared to Virginia they are no more than this snuff Box is to the Size of a Man. On being asked afterwards by an intimate, why he had risqued such an assertion. There was not any short-Hand-man present said he. . . .

1. RC, John Gray Blount Papers, Duke University. Printed: LMCC, VIII, 747. For another excerpt from this letter, see V below. Williamson (1735-1819), an Edenton, N.C., merchant and physician, was a delegate to Congress, 1782-85, 1788; to the Annapolis Convention (he arrived after it adjourned); and to the Constitutional Convention, where he signed the Constitution. He voted to ratify the Constitution in the second North Carolina Convention in 1789. Blount (1752-1833), a merchant, planter, manufacturer, and land speculator, represented Beauford County in the North Carolina House of Commons almost continuously from 1782 to 1793. He served in both North Carolina conventions, where he voted to ratify the Constitution in 1788 and 1789.

**Princess Anne, 13 March**  
**Anthony Walke (Y)      Thomas Walke (Y)**

*Poll List*<sup>1</sup>

This document consists of eight full pages and part of a ninth. It is headed "A Poll for the Election of Delegates for the Convention to be held in June next 1788." Seven candidates received votes. The name of each is listed immediately followed by the names of voters (in paragraph form). The candidates appear in order of the number of votes each received. The vote totals for only the five leading candidates were listed at the end of their polls. The candidates and their number of votes are: Anthony Walke 354, Thomas Walke 182, Edward H. Moseley, Jr., 176, Thomas Kempe 160, Edward Rice 13, George D. Corprew 2, and Joel Morse 1.

Anthony Walke, a wealthy planter and merchant, represented Princess Anne in the House of Delegates, 1785-86, 1787-88. Justice of the peace Thomas Walke represented the county in the House, 1782-83, 1784-85, 1787-89, while Kempe served in that body, 1783-84, 1788-89. Moseley was clerk of the county court from 1771 to 1814. He had served in the House of Burgesses, 1769-70, 1772-74, and in the first revolutionary convention, 1774. Moseley and Anthony Walke were brothers-in-law.

1. MS, Princess Anne Deed Book 21, pp. 346-54, Vi. For a photographic reproduction, see Mfm:Va.

**Rockbridge, 4 March**  
**William McKee (Y)      Andrew Moore (Y)**

*Archibald Stuart to John Breckinridge*  
*Staunton, 1 March (excerpts)*<sup>1</sup>

. . . We go on smoothly here about ye Constitution. . . .

It is otherwise in Rockbridge where [William] Graham has sounded

the Bell of Sedition & raised an uncommon Commotion, the Consequence is that He to his infinite gratification is to be elected. . . .

1. RC, Breckinridge Family Papers, DLC. Staunton is the county seat of Augusta.

**Rockingham, 24 March**  
**Thomas Lewis (Y)      Gabriel Jones (Y)**

*Richard Morris to James Maury*  
*Green Springs, 11 February (excerpt)<sup>1</sup>*

. . . I was, during this hard weather, to see your old friend Ths. Lewis. He is, you may be sure, a strong advocate for the Constitution,<sup>2</sup> & if you could but transfer yourself across the Atlantic with a wish, you might spend a few hours agreeably with the Old man in hearing him abuse the anti-constitutionalists. . . .

*Archibald Stuart to John Breckinridge*  
*Staunton, 1 March (excerpt)<sup>3</sup>*

. . . We go on smoothly here about ye Constitution & I believe Johnstone & myself are safe [in Augusta County] ye same in Rockingham where Lewis & Jones will be elected . . .

1. FC, Morris Papers, ViU. Printed: CC:522. Morris served as a factor for Maury, who was now a Liverpool merchant. "Green Springs" was Morris' Louisa County plantation.

2. On 19 February William Fleming described Thomas Lewis and Gabriel Jones as "strongly for the Confœderation as new modeled." He thought that Lewis would "offer" for the Convention (to Thomas Madison, RCS:Va., 384).

3. RC, Breckinridge Family Papers, DLC.

**Shenandoah, 27 March**  
**Jacob Rinker (Y)      John Williams (Y)**

*Winchester Virginia Gazette, 2 April*

At the close of the poll on Thursday last, for delegates to represent Shenandoah County in the ensuing Convention, the numbers were,

For Jacob Rinker,	270
John Williams,	223
Isaac Zane,	193

Whereupon Jacob Rinker and John Williams, Esq's. were declared duly elected. (Both Federal.)<sup>1</sup>

1. Rinker was county surveyor. Williams was county clerk from 1784 to 1789. Isaac Zane, Jr., a merchant, distiller, and miller, represented Frederick County in the House of Burgesses, 1772-74, all five revolutionary conventions, 1774-76, and the House of Delegates, 1776-82. He represented Shenandoah in the House, 1782-95.

**Spotsylvania, 4 March**  
**James Monroe (N)     John Dawson (N)**

*John Dawson to James Madison*  
*Fredericksburg, 18 February (excerpt)<sup>1</sup>*

... in this county the candadates are Genl. Spotswood,<sup>2</sup> Mr. Page Mr. Monroe and my self—it is impossible to say who will be elected—the contest will probably be between the three last mentiond. . . .

*Jonathan Clark Diary, 4 March (excerpt)<sup>3</sup>*

Snow at Spotsylvania Court, an election for Convention Genl. Spotswood Col Page, Col. Monroe, Mr. Dawson & Mr Heth Candadates. Col. Monroe & Mr. Dawson elected. . . .

*Instructions to the Spotsylvania Delegates*  
*to the State Convention, c. 4 March<sup>4</sup>*

In electing you our Deputies to the Convention to be held in June next to take into consideration the new plan of government we have confided to your care and management the greatest trust in our Power to delegate—Government is a subject whereon virtuous and well informed men differ. We think however the most approved writers on political liberty concur in the opinion that free government is best maintained by a mixture of the simple forms, wherein the legislative, Executive and judiciary are kept separate and distinct—these sentiments were generally prevalent when the people formed their State constitutions—The foederal compact has indeed departed from these principles, the whole power of the Union being vested in one Body of State representatives, each State having an equal vote in the decision of all questions. To this imperfect organization may in great degree be ascribed the imbecility of the government, and hence the necessity of additional powers. We presume not to decide on the various parts and combinations of the proposed system, but cannot avoid expressing our disapprobation of the great power of the Senate, and the undefined, unlimited, and, we think, unnecessary Power of the judiciary—To such propositions therefore as shall be made tending to confine the Senate to the exercise of legislative powers only, and for vesting the Executive powers in the President aided by a proper Council of advice making them responsible for their conduct we desire and expect your concurrence[.] We desire and expect your concurrence in such propositions as shall be made tending to limit and more clearly define the powers of the judiciary department. Although we think the true



principles of fœderal government would have required the vesting the Congress organized as we have proposed with full power over all external concerns reserving to the States the management of internal matters. Yet as the general Convention after long deliberation have decided in favor of the Political experiment of a consolidation of the States for the accomplishment whereof extensive Powers are necessary we feel a reluctance in giving you pointed instructions on this branch of the system least we should impair the powers essential to the execution of the government—care should however be taken to preserve the rights of the people and Protect them from burthensome and oppressive operations of this branch of the government—We recommend therefore to your consideration the Propriety of vesting the State Courts with the cognizance of all internal concerns and also of external matters where the party shall in the first instance choose to institute process there with an appeal to the fœderal court of appeals in the latter cases—The appellate Court should have also original jurisdiction in all external matters. The appellate court should not revise facts but be confined to the record—The trial by jury should be secured in civil as well as criminal cases. The levying and collecting internal Taxes & duties although deemed necessary for the support of government will we fear in its operation produce mischief, if therefore the expedient of requisitions before the general government exercises the power shall be thought proper and effectual it may be well to make the experiment—These and other objections that have been and may be made we leave to your prudence and judgment confiding in your integrity to do the best you can for the common good. Although we have expressly required your concurrence to certain Propositions for amendment yet we mean not thereby to break the Union which it is our determination to preserve and do hereby authorise you in case nine States shall have accepted the government before the decision takes place in our Convention that you agree to accept and ratify the same protesting agt. or declaring our dissent to such parts as shall be thought objectionable by a majority of the Body and calling pressing on the new Congress when convened an early consideration and adoption of them into the System.

*James Hunter, Jr., to Marianna Hunter  
Fredericksburg, 8 March (excerpt)<sup>5</sup>*

... but the very busy Elections have put them all mad—Monroe & Dawson are chose for Spotsylvania, one for the other against the Constitution<sup>6</sup> . . .

1. RC, Madison Papers, DLC. For the entire letter, see Orange County Election (above).

2. Alexander Spotswood, a planter, had extensive landholdings in Spotsylvania, Orange, and Culpeper counties. In March 1781 the legislature appointed him a brigadier general, empowering him to raise two legions to defend Virginia against invasion by the British. The troops were not raised. Spotswood married George Washington's niece, Elizabeth Washington.

3. MS, Filson Club, Louisville, Ky. Clark (1750–1811), older brother of George Rogers Clark, represented Dunmore County in the second, third, and fourth revolutionary conventions, 1775–76. (In 1778 Dunmore was renamed Shenandoah.) He was a lieutenant colonel in the Continental Army during the Revolution, and in 1793 he was commissioned a major general in the Virginia militia. After the Revolution, he lived in Spotsylvania County until he moved to Kentucky in 1802.

4. MS, Monroe Papers, ViW. This unsigned, undated manuscript was probably prepared on court day, 4 March, in Fredericksburg. For an address of James Monroe to the freeholders of Spotsylvania County, see *Some Observations on the Constitution*, c. 25 May (III below).

5. RC, Hunter Family Papers, ViU. James Hunter, Jr. (1746–1788), a Portsmouth merchant, had married Marianna in 1773 or 1774. He was commissary for public stores in Fredericksburg, 1776–78. Several of his private ventures failed, putting his business in severe financial straits after 1782.

6. James Duncanson reported that the election in Spotsylvania “ended very unfavorably. Dawson & Colo. Monroe carried agt. Page and Spotswood” (to James Maury, 11 March, RCS:Va., 479). See also the *Maryland Journal*, 11 April (III below), for an extract of a 30 March letter from a gentleman in Fredericksburg, praising the election of Dawson, who “has been decidedly against the New Constitution, and, on the Day of Election, explained its fatal Tendency in so masterly a Manner, that his Countrymen were fully convinced of the impending Danger, consequently were almost unanimous.”

### Stafford, 10 March

George Mason (N)      Andrew Buchanan (N)

*John Dawson to James Madison*

*Fredericksburg, 18 February (excerpt)<sup>1</sup>*

... Mr. Mason will *probably* be returned for Stafford, as the people have signed a petition and sent it to him, requesting his services—he is however warmly opposed by Colo Carter<sup>2</sup> and Mr Fitzhugh. ...

*James Hunter, Jr., to Marianna Hunter*

*Fredericksburg, 14 March (excerpt)<sup>3</sup>*

... Old Carter & Fitzhugh have lost their Election, and the Constitution is wore threadbare—they are all at it by the Ears—God knows without knowing any thing about it.<sup>4</sup> ...

[P.S.] ... If Sale of the Portsmouth Lotts is in your plan, the sooner your Brother sells the better, for the moment the Constitution takes place of which I have no doubt—the Bankrupt Law will settle them other wise than he may wish—

*Impartiality*

*Philadelphia Independent Gazetteer*, 4 April<sup>5</sup>

It is usual for candidates for a seat in the public bodies in Virginia, which are in the gift of the people, to declare their sentiments by making a short speech on the election ground; accordingly when *Mr. Mason*, who was a member of the general convention, was about being elected to a seat in the convention of that state, in a harangue to the people, he expressly informed them of his intention to vote against the new constitution, for which he gave his reasons, and at the conclusion of his speech he made this observation:—"My Fellow-Citizens, you have been often told of the wisdom and virtue of the federal convention, but I will now inform you of their true character—the deputies to that body from the states to the southward of us were *Coxcombs*; the deputies from Virginia you know pretty well; the majority of the deputies from the middle states were intriguing office-hunters; and those from the eastern states fools and knaves."

This comes up so well to their real character, that I could not forbear handing it to the public, who should at least have both sides of the story.

1. RC, Madison Papers, DLC. For the entire letter, see Orange County Election (above). For other reports of Mason's candidacy in Stafford, see Edmund Randolph to Madison, 27 December, and George Washington to Madison, 5 February (RCS:Va., 275, 280). Washington heard it rumored that Mason could also have been elected for Prince William and Fauquier counties. Arthur Lee, who had hoped to serve in the Convention, realized that he had no chance of success in Stafford and had "therefore given up the pursuit" (Lee to Richard Henry Lee, 19 February, Westmoreland County Election, below).

For more on Mason's candidacies in both Fairfax and Stafford counties, see James Mercer to John Francis Mercer, 12 December; Edward Carrington to Henry Knox, 12 January; and David Stuart to George Washington, 17 February (all in Fairfax County Election, above).

2. Charles Carter represented Stafford in the House of Burgesses, 1773–76, the first four revolutionary conventions, 1774–76, and the House of Delegates, 1776–79, 1782–84.

3. RC, Hunter Family Papers, ViU.

4. James Duncanson reported that "old G: Mason & attorney Buchanan, returned before Chas. Carter & B: Fitzhugh, the latter two . . . firm friends, the others opposed to every good measure" (to James Maury, 11 March, RCS:Va., 479).

5. For similar descriptions of Mason's address, see Tobias Lear to John Langdon, 3 April (III below), and Hugh Williamson to John Gray Blount, 3 June (V below).

**Warwick, 13 March**  
**Cole Digges (Y)      Richard Cary, Jr. (N)**

*A Freeholder of Warwick*

*Virginia Gazette and Independent Chronicle, 1 November 1788*

Mr. Dixon, Avoiding all personalities and billingsgate language in answer to Major *Cole Digges's* reply to the late queries inserted in your Paper of the 6th ult.<sup>1</sup> I shall refer the public to the following Certificates which will fully prove, the duplicity of character which the WARWICK FREEHOLDER meant to fix on the above Gentleman, who, the public ought to be informed, voted against all the amendments in the Fœderal Constitution.—The Author has too great a regard both for the public and his own reputation, to trouble himself by again appearing in print.

*October 27, 1788.*

A FREEHOLDER of WARWICK.

I do hereby depose, that the day on which the election for Delegates to the late Convention, was held for the county of *Warwick*, a motion was made publicly, during the election, by a freeholder of the said county, to have the Delegates then about to be chosen, instructed how to vote in Convention to be held in *June* last at *Richmond*; that this motion was opposed by Colonel *Edward Harwood*,<sup>2</sup> who declared himself against the Constitution; and to the best of my knowledge observed, that he was against any instructions being given to our Representatives on a matter of that concern; at the same time declaring, he could intrust Major *Cole Digges* one of the Gentlemen he had voted for, with his rights, for their sentiments were nearly equal—This I think was the substance of Col. *Harwood's* declaration, though I cannot swear to the identical words:—And being called upon, I do further depose, that I always, before and since the meeting of the late State Convention, considered *Thomas West*,<sup>3</sup> Esquire, opposed to the Constitution, without material previous amendments, from his repeated protestations to me.—That Mr. *West* espoused Major *Digges's* interest in canvassing for Convention, and since the rising of the same, he informed me Major *Digges* had deceived him in his conduct, by voting against all previous amendments.

*GIVEN under my hand this 18th day of October, 1788.*

RICHARD CARY, Jun.<sup>4</sup>

*Sworn to before me, the day and year above-written.*

WILSON CARY, A Magistrate for Warwick county.

I do hereby depose, that I was twice in company with Col. *Edward Harwood* at different times and places, before the day of election for

Delegates to represent the county of *Warwick* in the late Convention, and that he fully declared his utter detestation of the new Fœderal Constitution, (in my hearing) as subversive of the liberties of the people, unless it should be materially amended previous to its adoption. I further depose, that I was present at the poll held for Delegates to represent the said county in Convention, and that on a motion made, for instructing the Delegates how they should vote, it was objected to by Col *Harwood*, who declared, that after several conversations with Major *Digges*, on the subject of the Constitution, he was perfectly satisfied that Major *Digges*'s opinions tallied so nearly with his own, that he could safely trust him, and therefore thought instructions unnecessary—he concluded with this expression, or words to the same import, *viz* that he would rather cut his right hand off, than subscribe his name to the poll of any person, who in Convention, would give his suffrage for adopting the Constitution, without previous amendments.

WILSON CARY.<sup>5</sup>

*Sworn to before me, this 20th day of October, 1788.*

FRANCIS LEE, A Magistrate for the county of *Warwick*.

Having been requested by a Freeholder of *Warwick* to declare what passed between Major *Cole Digges* and myself about the New Constitution, previous to the *Warwick* election, I do certify the following to be the truth as nearly as I can recollect.—Major *Digges* informed me he intended to offer himself as a candidate at the *Warwick* election for Delegates to the Convention, and desired to know my opinion on the new plan of government I informed Major *Digges* I was a friend to the proposed government, with some amendments, he declared he was of the same opinion, and that there were in his opinion some exceptionable parts—which no free men upon earth ought to submit to—and that he never would give his assent to the new Constitution, until some amendments were obtained—or words to the same affect.

*Richmond, October 27, 1788.*

ROBERT SHEILD.

Although I considered the certificate given to Major *Cole Digges* void of all ambiguity, yet being called on by the querist for an explanation thereof, think proper to declare, whenever Major *Digges* spoke of amendments I always supposed them previous to the adoption of the new Constitution.

*Richmond, October 27, 1788*

THOMAS WEST.

1. The 6 September 1788 issue of the *Virginia Gazette and Independent Chronicle* has

not been located, but the issue of 25 October contained an "Errata" correcting an error in a communication from "A Freeholder of Warwick," printed on 6 September. Digges's response has also not been found. Digges, a planter, represented Warwick in the House of Delegates, 1778-84.

2. Harwood, a planter, represented Warwick in the House of Delegates, 1777-80, 1781-83.

3. West, a planter, represented Warwick in the House of Delegates, 1788-90.

4. Richard Cary, Jr., a lawyer, represented Warwick in the House of Delegates, 1785-88, 1798-1800. He was a state senator, 1792-97.

5. Wilson Miles Cary, a planter, represented Elizabeth City County in the fifth revolutionary convention, 1776, and intermittently Elizabeth City, Fluvanna, and Warwick in the House of Burgesses or the House of Delegates between 1766 and 1787. He was John Blair's son-in-law.

### Washington, 10 March

Samuel Edmiston (N)      James Montgomery (N)

*William Russell to William Fleming*

*Washington County, 24 March (excerpt)<sup>1</sup>*

I now set down to apologize for, not having answered your late & valuable letter, on the new Constitution<sup>2</sup> sooner; but when, I tell you, [I] have been much indisposed, since our late election, till now, hope you will excuse it.

I have made free to shew your letter to Colonel Edmiston,<sup>3</sup> & other principal men of this county; all of whom acknowledge your remarks to be very powerful; and am persuaded it is our general wish here, that you succeed in your election for the Convention.<sup>4</sup> . . .

1. RC, Draper Manuscripts, Frontier Wars, State Historical Society of Wisconsin. In this letter, Russell also wrote that he would run for state senator, and he requested Fleming's help in Botetourt County, which was in the same senatorial district as Washington County. Russell was elected to the Senate in April.

2. Russell had written Fleming on 25 January expressing his misgivings about the Constitution and requesting Fleming's opinion about it. Fleming's response of 19 February has not been found, but on the same day he gave his opinion in a letter to Thomas Madison. (See Botetourt County Election, above.)

3. William Edmiston, a colonel in the Washington County militia, had been a justice of the peace since the county's formation in 1776 and sheriff from 1782 to 1784.

4. For Fleming's election, see Botetourt County Election (above).

### Westmoreland, 25 March

Henry Lee (Y)      Bushrod Washington (Y)

Two important events occurred in the Westmoreland election. Richard Henry Lee chose not to run and Robert Carter of "Nomini Hall" decided to abandon his thirteen-year retirement from politics and seek a Convention seat. Since the fall of 1787, it had been assumed that Lee would be a candidate for the Convention. If not electable in Federalist Westmoreland, Lee was told that Fauquier would elect him, if he declared his

candidacy (Arthur Lee to Richard Henry Lee, 19 February, below). Reports, however, circulated that Lee did not wish to continue his opposition to the Constitution because he felt uneasy in the company of Antifederalists, such as Patrick Henry and Meriwether Smith (see note 9, below). But Lee professed a fear for his health in Richmond as the reason for not seeking election to the Convention (to John Lamb, 27 June, "The Second Attempt at Cooperation between Virginia and New York Antifederalists," 18 May–27 June, III below).

Robert Carter had served on the Virginia Council from 1758 to 1775, when he retired from public life. At first, he was indifferent to independence, but he eventually supported the American cause. The Constitution apparently rekindled his interest in politics, and he campaigned for a seat in the Convention. Carter advertised his candidacy, obtained a list of the voters from the county clerk, and actively solicited votes. His health, however, did not permit him to campaign as extensively as he would have liked. Despite Carter's efforts, the voters elected Henry Lee and Bushrod Washington.

For some unknown reason, the Convention's Committee of Privileges and Elections singled out Westmoreland for scrutiny. On 5 June the committee reported "That the return of the election of Delegates to serve in this Convention, for the said county of Westmoreland, is satisfactory." The Convention agreed with the committee's finding that nothing was amiss, allowing Lee and Washington to continue representing their county. (See Convention Debates, 5 June, IV below.)

*Robert Carter to the Electors of Westmoreland  
Westmoreland Courthouse, 27 November<sup>1</sup>*

Robt Carter of this County begs leave to inform the Electors of Delegates who are to meet in convention in the City of Richmond in June next—that he offers himself a Candidate on this very interesting and important occasion—And he herein Solicites the favor of their Votes at this place on the Court day in the Month of March Next.

*Robert Carter to James Bland  
Nomini Hall, 5 December<sup>2</sup>*

Be pleased to send me a copy of the freeholders Names, who voted for Delegates last April—those who reside in the Parish of Washington Distinguish thus (W) Those who reside in the parish of Cople thus (C) as far as you know<sup>3</sup>

Note your fee which I shall deliver by the first opportunity, and if the list mentioned above should not be ready on the return of this Servant, who is going up for Miss Molly Barnet—pray advise when it will be ready

*Henry Lee to James Madison*  
*Stratford, 7 December (excerpt)*<sup>4</sup>

... It becomes you to return in time to secure your election [in Orange County]. If possible let me see you—I have offered myself in Westmoreland, but such is the number who contend for this distinction, it is not probable that I may succeed. God bless you—

*Robert Carter to the Electors of Westmoreland*  
*Nomini Hall, 6 February*<sup>5</sup>

To the Resident and Non Resident Electors of Representatives  
 To the Gl. Assembly in the County of W. Coty.

Dear fellow Citizens

I have read and considered the plan of the foederal Constitution proposed by a late Convention wh Sat in Philadelphia, wh plan was transmitted to our General Assembly—And they accordingly recommend that a Convention of two Delegates fm each County should meet at Richmond Town on the first Monday in June Next—they either to accept of or reject the proposed Constitution

I do acknowledge that in considering this great Subject I obtained my full Consent to attend as a member of this Convention—And so long agoe as the 27th day of Novem: last I did Notify by advertisement that Idea, and therein I offered my Service to you

My Present Indisposition obstructs the pleasure & duty of waiting on you personally and I now do it by a Substitute, requesting the favor of all Electors, who wish my attendance at the approaching convention, will declare it by Subscribing their Names to the inclosed paper.

I am Dear Fellow Citizens Respectfully your Most Obed & very Hum  
 servt Robt Carter

[Subscription Paper]

If Robt. Carter of Westmorld. County shod. take a Poll on Tuesday the 25th day of Next Month, March, at Westmorland Courthouse for a Delegate of Convention to Meet at Richmond Town in the Month of June Next—We whose Names are underwritten will Vote for him

*Arthur Lee to Richard Henry Lee*  
*Alexandria, 19 February (excerpt)*<sup>6</sup>

My dear Brother,

After waiting four days at Col. Masons, in hopes of a passage there over the river, I set forward for Georgetown<sup>7</sup> & learn here that the passage is impracticable there. There is such an aggregation of Ice



both there & here that nothing but a general thaw will enable me to cross, & the same thaw will render the roads almost impassable, so that my prospect is bad.

Col. Mason laments very much, that you do not stand for the Convention. He says there will be no one in whom he can confide. That you will be regarded by many as having deserted a cause in which you have publishd your persuasion of its being of the last moment to your Country.<sup>8</sup> That this belief be stre[n]gthend by a report which some of your friends have propagated, that you have given up all idea of opposing the Constitution because your friends think differently,<sup>9</sup> & have recommended two violent Constitutionalistes to the freeholders of Westmoreland. He is afraid these things will injure your character so much, that [should] another general Convention shoud be orderd, you will not be among the Delegates which he shall consider as a misfortune to the Country. It is his opinion that the Convention will recommend another general Convention.

I mention these things to you for your consideration. You might certainly be chosen in Fauquier, were you to declare yourself. I confess I wish to see you elected whether you serve or not, & I cannot but think you might board within a few miles of Richmond & by going there in the day only, avoid all risque of its unhealthyness.<sup>10</sup> I have no chance either in Stafford or Prince William, & have therefore given up the pursuit.

The ice keeps the northern Mail at Georgetown, so that there are no late Advices from the northward. The Debates in the Massachusetts Convention, run high & the determination is uncertain. Hancock pretends to be sick, that he may not hazard himself 'till he is clear there is a majority for it; which it is to be apprehended will be obtained by the intrigues in Boston, which Hancock, King & Gorham are pretty adept in managing.<sup>11</sup> . . .

*Robert Carter to Fleet Cox, Sr.*  
*Nomini Hall, 25 February*<sup>12</sup>

My intention was to have visited all the Electors of Representatives to Gl. Assembly living in, and out of Westmd Coty. before the day of Election for Delegates to attend the Convention wh. is to assemble in Richmd Town in June next—But I apprehend under my prest. indisposition would be very improper if not impossible for me to perform in so short a time: therefore I have Classed the Voters into four divisions viz Washington Parish into upper and lower division—Cople Parish—above Nomony Ferry—and below Nomony Ferry to suit the

Ease of such persons who are disposed to hand about the annexed letter, directed to the Electors in this County<sup>13</sup>

I beg the favor of yourself and your Son Mr F Cox, Mr Jere Baily, Mr Thos. Sanford, Capt Wm Middleton Mr John Middleton, all living below Nomony Ferry—that yourself and they would Communicate the annexed letter to each of the respective voters below Nomony Ferry—and those persons who will favor me with their Votes will be pleased to sign their Names by themselves or their friend on the written memorandum herein inclosed—which is to be returned to me

1. FC, Carter Letterbooks, Duke University.
2. *Ibid.* Bland was clerk of Westmoreland.
3. Bland supplied Carter the desired list which Carter copied in his letterbook between the dates 17 and 22 December. The names of 264 freeholders are listed, apparently 109 from Washington Parish and 155 from Cople Parish. For the list, see Mfm:Va.
4. RC, Madison Papers, DLC. For the complete letter, see RCS:Va., 223–24.
5. FC, Carter Letterbooks, Duke University.
6. RC, Lee Family Papers, ViU.
7. George Mason's plantation, "Gunston Hall," is down river from Georgetown and on the opposite side of the Potomac.
8. See Richard Henry Lee to Edmund Randolph, 16 October, which was printed in pamphlets and newspapers throughout America (RCS:Va., 59–67).
9. George Washington had written James Madison on 10 January that Richard Henry Lee "(tho' he may retain his sentiments) has with-drawn, or means to withdraw his opposition; because as he has expressed himself, or as others have done it for him, he finds himself in bad company . . ." (RCS:Va., 292. For other comments on Lee's alleged withdrawal of his opposition, see *ibid.*, 313, 313n, 322, 357n, 382, 457.). Lee's alleged withdrawal from active opposition to the Constitution was also widely commented upon in the Northern States (see CC:Vol. 3, pp. 438, 452, 498; and CC:Vol. 4, pp. 138, 239, 339n, 553). See also Edward Carrington to Henry Knox, 12 January, Fairfax County Election (above).
10. On 27 June, Richard Henry Lee wrote John Lamb that "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" (Lamb Papers, NHi). The Hessian surgeon Johann David Schoepf, who traveled throughout the United States in 1783–1784, reported that the falls at Richmond, "incessantly churning the water and throwing it up to the air, are thought to be the occasion of the clouds, which are more frequent here, it is said, than at other places where circumstances are dissimilar; on this ground also it is claimed further that Richmond is not so healthy as, from its situation in other respects, it might well be supposed to be but is very subject to autumn and intermittent fevers." Schoepf discounted these stories, believing instead that "the swamps and the amount of standing water in the country" were the reasons for the unhealthy conditions (Alfred J. Morrison, trans. and ed., *Travels in the Confederation* [Philadelphia, 1911], 51–52).
11. For Massachusetts' ratification and Governor John Hancock's role, see CC:508.
12. FC, Carter Letterbooks, Duke University. Cox was a Westmoreland planter.
13. At the end of this letter, Carter wrote: "Paper inclosed & annexed/Letter See page 78–79," a reference to Carter's letterbook copy of his 6 February letter to the electors of Westmoreland (above).

**Williamsburg, 3 March**  
**James Innes (Y)**

*Virginia Gazette and Weekly Advertiser, 6 March*<sup>1</sup>

Monday last came on the election of Delegates to represent the county of Henrico in Convention, when his Excellency EDMUND RANDOLPH, and JOHN MARSHALL, Esquires, were made choice of.—On the same day, JAMES INNES, Esq; was unanimously elected for the city of Williamsburg.

1. Reprinted: *Baltimore Maryland Gazette*, 14 March, and *State Gazette of South Carolina*, 3 April. An excerpt announcing only the unanimous election of Innes appeared in the *Pennsylvania Packet*, *Pennsylvania Journal*, and *Philadelphische Correspondenz* on 17, 19, and 25 March, respectively.

James Innes (1754–1798), a graduate of the College of William and Mary and a lawyer, was a lieutenant colonel in the Continental Army, 1776–78, and judge advocate, 1782. In the House of Delegates, he represented James City County, 1780–81, and Williamsburg, 1781–82, 1785–86. He was attorney general of Virginia, 1786–96.

**York, 17 March**  
**John Blair (Y)      George Wythe (Y)**

*Littleton Waller Tazewell*

*Sketches of His Own Family, 1823 (excerpt)*<sup>1</sup>

... In the year 1787 the Convention which had met in Philadelphia for the purpose of revising the existing fœderal system, produced the present Constitution of the United States, as the result of the combined wisdom of America—By one of the resolutions of this Convention, the proposed Constitution was to be laid before Congress, & afterwards to be submitted to a convention of delegates chosen in each State by the people thereof, under the recommendation of its Legislature, for their assent and ratification—In consequence of this, the Legislature of Virginia at their October session 1787 had passed an act, directing the manner in which these delegates should be chosen, and that they should meet in Richmond in June 1788. Under this law all restrictions of qualifications in the delegates were removed, and any of the executive or judicial officers of the government were eligible. The agitation produced by the examination of the important question now presented, the decision of which was supposed to involve the fate of this Union, had been equal'd by nothing but that occasion'd by the first great question of resistance. The friends and enemies to the adoption [of] this new Constitution, now distinguished as Fœderalists and Antifœderalists, were equally zealous and active in their exertions to promote the success of their respective wishes. The Governor, many

of the Judges of the superior Courts, members of Congress, and all others of the most distinction in the State, were candidates for seats in this Convention: but Henry Tazewell was not there.<sup>2</sup>

He resided at this time in Williamsburg, and in that part of it which was in the County of York, from one or the other of which places of course he must be elected, if chosen at all—His intimate friend Colonel James Innis, who had succeeded him as the member of assembly from Williamsburg when he was elevated to the bench, had already announced himself as a Candidate for the Convention also from that town. And in York, his old friends General Thomas Nelson and Mr. Prentis (afterwards Judge Prentis) who had long represented that County in the Assembly, presented themselves in like manner as solicitors for seats in the Convention. To all and each of these gentlemen Judge Tazewell was opposed in opinion upon the great question then agitating, he being opposed to the adoption of the proposed Constitution, while they were in favor of it. The majority of the people in Williamsburg and York were Fœderalists, and altho the popularity of Judge Tazewell was such at this time, that had he offer'd, the contest between him and any of the others would most probably have been sharp and doubtful, yet such a contest must necessarily have brought him into warm conflict with old friends whom he sincerely regarded, and who already were incumbents as it were in the offices to which they again wished to be appointed. In such circumstances he refused to become a candidate for either place, and uniformly resisted all applications to him upon that subject, invariably declaring, that no consideration should induce him, voluntarily to oppose himself to these friends whom he prized and respected so highly.

While this subject is before me my recollection is called to an incident that occurred at the York election, alike honourable to all concerned in it, which I will state. After Judge Tazewell refused to become a candidate for this County, the antifœderalists put up two persons by the name of Shield<sup>3</sup> as opponents to General Nelson and Mr. Prentis for the Convention. When the election was about to commence, (which was expected to be very closely contested) the poll keepers had already prepared their polls, headed with the names of these four candidates; these gentlemen had taken their seats on the bench as is customary; and the proclamation had been made by the Sheriff, inviting the freeholders to come forward and vote—At this juncture an old man by the name of Charles Lewis step'd forward, and addressing himself to General Nelson & Mr. Prentis remarked, that he had always voted for them as they would recollect, and that he had never found any cause to regret his votes—That he had therefore left home that morning,

with intent to vote for them again; but on his way to the Courthouse he had reflected, that his vote this day, would not be expressive of his confidence in these gentlemen, so much, as of a wish that the proposed Constitution should be adopted—In this situation he had examined this instrument, upon the adoption or rejection of which he was thus called on to decide, so far as his single suffrage would go; but that all his examination had not satisfied him what opinion he ought to express upon this question—That having no opinion himself upon this subject, it had occurred to him as improper to express one, by voting in favor of any of the candidates, who had already formed and declared a decided resolution as to the course they should pursue if elected. For his part, wanting information as he did, he could not reconcile it to himself, to vote for any, to whom having decided already, further information would be of no advantage. That if the question was, who he should depute for him to decide unknown and unforeseen matters, he would unquestionably vote for the persons to whom he addressed himself; for as to such subjects, their minds were as impartial as his own, and he had unlimited confidence (which experience had taught him was well merited) in their judgments, when exercised with such impartiality. But as there was now a single and a known proposition to be settled, which all concur'd in considering, as the most important of any that had ever come before the people, since the question of Independence, he thought it wrong to prejudge such a question, when it had not been fully examin'd—Hence he had made up his mind, to vote in favor of persons who so far as he knew had formed no opinion as yet, who were still open to conviction, and unpledged to support any side, and who should be well qualified to determine wisely, what they were prepared to examine impartially—These reflexions had called to his recollection his two fellow Citizens George Wythe and John Blair;<sup>4</sup> and he hoped his friends would for these reasons excuse him, if upon this occasion he directed the sheriff to record his vote in favor of these distinguished patriots, whose age and retirement by keeping them aloof from the warm conflict that had been carrying on, had suffer'd them still to be impartial, and whose long experience and well approved past services, while they gave good assurance of their wisdom, also prefer'd strong claims to the gratitude of their county. Scarcely were these words utter'd by Lewis, when General Nelson springing from the bench where he had taken a seat, advanced to him, and seizing him by the hand, thanked him in the warmest terms for what he had said and done; adding that altho' Mr. Lewis had got the start of him in the good race then to be run, he would suffer no other man to precede him in the support of Mr. Wythe & Mr. Blair, whose merit

none better knew than himself—He therefore directed the Sheriff to record his vote also in favor of these gentlemen, and solicited all those who might have come to the Courthouse intending to vote for him, not to consider him as a candidate, but to follow his example in supporting these persons—Mr. Prentis soon followed General Nelson in this course, and Mr. Wythe and Mr. Blair were elected by an unanimous vote. When the election was over, General Nelson addressing the people observed, that as they had thus elected these gentlemen without their knowledge, it would be well to complete the good work they had so begun, and to secure the approbation of the persons elected and their consent to serve. He therefore proposed, that they should proceed in a body from York to Williamsburg, and be themselves the bearers of their own request that the persons elected would accept their appointments. This proposition was carried by acclamation; and General Nelson placing himself at the head of his fellow-Citizens, they moved in procession to Williamsburg, where upon their arrival they ranged themselves quietly in front of Mr. Wythe's house, and deputing their leader as their spokesman, he presented himself in their behalf to the old man, and announced what had occurred—when General Nelson enter'd the room, I was reciting a Greek lesson to Mr. Wythe, and never shall I forget the countenances of these two great men upon this occasion—That of General Nelson was lighted up with the satisfaction which the consciousness of having willingly done a good deed never fails to inspire. His address was short and rapid, for his utterance was always quick. He remarked to Mr. Wythe, that altho' he had not expected to have seen him at the election that day, yet he regretted that he had not been there, for he might have seen exemplified very strongly, the truth of a sentiment, the conviction of which [— — —] [— — —] his whole life had manifested sufficiently, that the people were their own best governors—"True to this maxim, the freeholders of York County have this day by an unanimous suffrage elected you sir as one of their representatives in the next Convention. And as they did this without consulting you, they have come themselves to state to you what they have done; and to solicit you to fulfill the trust they have thus sought to confer upon you. They are now at your door, & have deputed me to make this communication in their behalf"—Mr. Wythe who had arisen when General Nelson first enter'd his study, had listend to these words with that sort of impatient anxiety that is produced by the anticipation of hearing something interesting, but of what nature we cannot conjecture—[— — —] as the communication was ended however he exclaimed, "at my door sir"; and immediately quitting the study went to the front door. We all follow'd him, and when

we joined him at the door, the loud shouts with which he had been received by the assembled multitude were still ringing. An hundred voices exclaimed at the same time, "Will you serve"—"We have elected you without your Knowledge, will you serve us"—Mr. Wythe was much agitated, every muscle of his face was in motion, and when the good old man standing on his steps his bald head quite bare attempted to speak, tears flowed down his cheeks in copious streams, and he could only utter incoherent sentences—It was to me the most interesting scene I had ever witnessed, and the swelling of my little heart was only relieved by a flood of tears also—General Nelson seeing Mr. Wythe's agitation promptly observed, "My dear sir we prize you too highly to suffer you to expose yourself thus uncover'd. Come in to the house, and let me report your answer, which I hope will accord with all our wishes". Mr. Wythe however was still unable to say more than "Surely"—"How can I refuse"—"Yes, I will do all my friends wish"—Hearing which General Nelson immediately announced "He will serve", and bowing to Mr. Wythe left the house—Again the shouts of the multitude made the welkim roar, & they passed respectfully by the door towards Mr. Blair's. Mr. Wythe remained bowing most gracefully to the throng as it moved by him, and when they left the house retired to his own apartment, and was no more seen that day.

1. MS, Vi. At the end of an introduction addressed to "My dear Children," Tazewell wrote that his sketch "is designed solely for your use, and will not probably during my life ever meet any other eye than my own. Should its perusal hereafter give any of you pleasure, I shall be amply rewarded for all the labour I shall bestow upon it." The introduction is dated "Norfolk. Virginia. August 22. 1823." Littleton Waller Tazewell (1774-1860), the son of Henry Tazewell, was a U.S. Senator, 1824-32, member of the Virginia Constitutional Convention, 1829-30, and governor, 1834-36.

2. Henry Tazewell, a lawyer, represented Brunswick in the House of Burgesses, 1775-76, the first two revolutionary conventions, 1774-75, and the House of Delegates, 1776-79. He also represented Williamsburg in the House of Delegates, 1779-81, 1782-85. He was a judge of the General Court, 1785-93, and of the Court of Appeals, 1793-94, and he served as a U.S. Senator from 1794 until his death in 1799.

3. Probably Robert Shield, who represented York in the House of Delegates, 1788-93, and Samuel Shield, who represented York in the House for twelve terms between 1794 and 1813.

4. John Blair (1732-1800), a lawyer educated at the College of William and Mary and the Middle Temple, was a judge of the General Court, 1778-80, the High Court of Chancery, 1780-88, and the Supreme Court of Appeals, 1788-89. He signed the Constitution in the Constitutional Convention, 1787, and was an associate justice of the U.S. Supreme Court, 1789-96.

### **General Commentaries on the Election of Convention Delegates April-June 1788**

By late March lists of the delegates elected to the state Convention, "distinguishing the numbers for and against the Constitution," circulated in manuscript in some areas of Virginia. On 8 April the Alexandria *Vir-*

*ginia Journal* (not extant) probably printed a list of counties indicating which ones were Federalist, Antifederalist, or divided. The next day the Winchester *Virginia Centinel* printed a similar list. A much more detailed manuscript list, which included the names of the delegates, was sent by David Henley in New York City to his father in Massachusetts on 28 April. Henley's total of 85 Federalists, 66 Antifederalists, and 3 doubtful approximated the total reported by Henry Knox to Jeremiah Wadsworth on 27 April (III below). By late June a list of delegates for and against ratification had reached John Brown Cutting in London.

*Virginia Centinel, 2 April*

A correspondent in Richmond, writes thus:—"The Constitution is the general topic—an accurate list has been handed about of the members already chosen as Delegates to the Convention, distinguishing the numbers for and against the Constitution—by this it appears there are a majority of ten in its favor, and it is the general opinion that this number will encrease."

*Virginia Journal, 8 April*<sup>1</sup>

A correspondent has favoured us with the following list, which he assures us is correct, of the delegates from the several counties, on adding up of which appear as follows, federal 38, anti-federal 25, divided 20.

*Virginia Centinel, 9 April*<sup>2</sup>

A correspondent has favored us with the following statement of the counties in this state for and against the adoption of the new Constitution, which he assures us is as accurate an account as the best information now had, will admit of, viz.

For the CONSTITUTION.

Accomack	Monongalia
Albemarle	Nansemond
Augusta	New Kent
Berkeley	Norfolk
Botetourt	Northampton
Caroline	Northumberland
Elizabeth city	Ohio
Fairfax	Orange
Fauquier	Powhatan
Frederick	Princess Anne
Gloucester	Richmond
Greenbrier	Rockbridge



Hampshire  
Henrico  
Harrison  
Hardy  
James city  
King George  
Lancaster

Rockingham  
Shenandoah  
Warwick  
Westmoreland  
York  
Norfolk borough  
Williamsburgh city

## AGAINST.

Amelia  
Amherst  
Bedford  
Brunswick  
Buckingham  
Campbell  
Charles city  
Chesterfield  
Cumberland  
Culpeper  
Dinwiddie  
Essex  
Fluvanna

Greensville  
Hanover  
Henry  
Isle of Wight  
Lunenburg  
Montgomery  
Prince Edward  
Pittsylvania  
Prince George  
Prince William  
Russel  
Stafford

## DIVIDED.

Loudon  
Louisa

Spotsylvania

## DOUBTFUL.

Charlotte  
Fayette  
Goochland  
Halifax  
Jefferson  
King & Queen  
King William  
Lincoln  
Mecklenburg

Middlesex  
Maddison  
Mercer  
Nelson  
Southampton  
Surry  
Sussex  
Washington

*Annapolis Maryland Gazette, 10 April<sup>3</sup>*

*Extract of a letter from a gentleman in Alexandria, of the  
8th instant, to a gentleman of this city.*

"I have the pleasure to inform you, that, on the close of the elections in this state for delegates to convention, there is a considerable majority of federal members, and among these, characters of the first

influence, both in point of popularity and abilities, such as Madison, Pendleton, Wythe, Innes, Marshal, Nicholas, &c. &c so that there is little doubt of the adoption of the constitution.”

*David Henley to Samuel Henley*  
New York, 28 April<sup>4</sup>

As I thought you would like to see how the new Constitution was like to operate in Virginia, I have Copied a list from one that has been sent me & as I had but a short time to do it in, you must excuse the roughness of the manner in which tis done;—you will see by it that there is a clear majority in favor of adopting it, but I wish to see such a Majority throughout the Union, as will not admit of a temptation for any civil Commotions, for should any thing of this kind take place America will be in a most deplorable situation.—the Convention in Maryland is now sitting,—and in this State the electioneering for Delegates comes on toMorrow;<sup>5</sup> tis uncertain how it may meet the body of the people here. some thinks a Majority is in favor, whilst others declare it to be decidedly against it.—

I have read the proposed Constitution and the writers for and against it, and must own that neither my knowledge or experience in Government is equal to comprehending what may be most proper for the Country to do, but what the Majority agrees to—I shall be content with—

*John Brown Cutting to Thomas Jefferson*  
London, 26 June<sup>6</sup>

. . . There is in London a very accurate list of the names of the state Convention—which I imagine is now assembled in Virginia—marked by a member of that body—with the supposed determination of each individual on the great question. The majority in favour of adopting is but small—according to this statement. Among those who are *for* the measure Governor Randolph it seems has marked his own name in the margin. I have not seen this paper; but the account I have reason to believe genuine.

1. After its summary introductory paragraph, the *Virginia Journal*, 8 April, which is not extant, probably printed a list of counties delineated Federalist, Antifederalist, or divided. By 8 May the summary paragraph alone was reprinted in fifteen newspapers: N.H. (1), Mass. (5), N.Y. (2), N.J. (1), Pa. (3), Md. (2), Va. (1). The paragraph is transcribed from the Annapolis *Maryland Gazette*, 10 April, which reprinted it under the heading: “Extract from the Alexandria paper of April 8.” The *Massachusetts Centinel*, 3 May, accompanied its reprint with this comment: “Having endeavoured for several days past, to obtain regular and authentick information of the state of FEDERAL AFFAIRS,

in Maryland, and Virginia; we are happy in having it in our power to lay before our readers some accounts from thence, which must be agreeable; and we trust may be relied on." For another report on Virginia in the *Massachusetts Centinel*, see "Newspaper Version of Henry Knox's Letter to Jeremiah Wadsworth," 27 April (III below).

2. Only three of the state's eighty-four counties—Bourbon, Franklin, and Randolph—are omitted from this "statement," which indicates that 77 delegates favored the Constitution, 53 opposed it, and 34 were doubtful. For mention of a list of election results "handed about" by the 3rd of April in neighboring Berkeley County, see the *Maryland Journal*, 11 April (III below).

3. Reprinted eleven times by 10 May: Mass. (1), Conn. (1), N.Y. (3), N.J. (1), Pa. (3), Md. (1), S.C. (1).

4. RC, Miscellaneous Manuscripts, David Henley Folder, DLC. David Henley (1748–1823) was one of the three commissioners to settle Virginia's claims against the United States for the expenses incurred in defending and maintaining the Northwest Territory before Virginia ceded it to Congress. Samuel Henley (1718–1795), David's father, was a Charlestown, Mass., merchant-distiller and a justice of the peace of Middlesex County.

Enclosed with his letter, Henley sent a list of 154 of the 170 delegates elected to the Virginia Convention. The list also contains Henley's predictions of how the delegates would vote on the Constitution. Henley's list consists of four blocks of data, each of which contains five ruled columns labeled (from left to right) "Counties," "Delegates," "Federal," "Doubtful," and "Antifed." The counties are listed in rough alphabetical order, with the city of Williamsburg and the borough of Norfolk appearing at the end. In the appropriate columns, the positions of the delegates on the Constitution were recorded. If a county's delegates were divided, a "1" appears next to the name of each delegate. If they were in agreement, a "2" was placed next to the name of the second delegate.

Running totals appear at the bottom of each set of columns. The cumulative tally appears at the bottom of the fifth block of columns: 85 Federalists, 3 doubtful, and 66 Antifederalists. (Cf. with the totals reported by Henry Knox to Jeremiah Wadsworth, 27 April, III below.) Not included are the names of sixteen delegates from eight counties—Bourbon, Jefferson, Madison, Mercer, Nelson, Ohio, Randolph, and Russell. The first five of these counties were in the District of Kentucky, the next two in present-day West Virginia, and the last in the far southwestern section of the state. At the end of the last set of columns, Henley commented about these eight counties: "'it is said, they are mostly in favor of the constitution.—If they should be divided, We still have a Majority of federalist—'."

Henley made several errors in identifying delegates. Job Welton, rather than Abel Seymour, was listed as being elected from Hardy; and Federalists George and Roger Thompson were listed from Lincoln County instead of Antifederalists John Logan and Henry Pawling. The wrong first names appear for Alexander (Elliott) White, Humphrey (Thomas) Marshall, Gabriel (John G.) Jones, Thomas (John) Roane, Theodorick (Thomas) Bland, and Robert (John) Alexander. Several last names were misspelled; the most serious substituted Stratton for Stringer (Northampton) and Hodding for Haden (Fluvanna).

The list also miscalculated how some delegates would vote. Robert Alexander (Campbell), Thomas Turpin, Jr. (Powhatan), and James Monroe (Spotsylvania) were listed as "Federal," but each voted against ratification of the Constitution. Conversely, Henley's "Antifed" David Patteson (Chesterfield), William Mason (Greensville), and Edmund Randolph (Henrico) voted to ratify. Of the three "Doubtful" delegates, Paul Carrington (Charlotte) opted for ratification, while Edmund Winston (Campbell) and Thomas Read (Charlotte) voted against the Constitution. Thomas Pierce (Isle of Wight), labeled "Federal," did not vote on 25 June. Six of the delegates from the eight "Counties not filled up" voted for ratification, with nine against. A Bourbon delegate did not vote.

For a photographic reproduction of Henley's list, see Mfm:Va., and for a transcript and commentary on it, see F. Claiborne Johnston, Jr., "Federalist, Doubtful, and Anti-

federalist: A Note on the Virginia Convention of 1788," *Virginia Magazine of History and Biography*, XCVI (1988), 333-44.

5. New York's elections were held from 29 April to 3 May.

6. RC, Jefferson Papers, DLC. Printed: Boyd, XIII, 290-93. Cutting (c. 1755-1831), an apothecary during the Revolution, completed his legal studies in England. In 1787 he was "a ministerial amanuensis" to John Adams, the American minister to Great Britain.

III.  
THE DEBATE OVER THE  
CONSTITUTION IN VIRGINIA  
1 April–31 May 1788

**Introduction**

*Public Commentaries on the Constitution*

The majority of essays in the state's ten weekly newspapers (both original pieces and those reprinted from other states) supported the ratification of the Constitution. There are, however, significant gaps in some of the ten newspapers, each of which printed nine regular issues in April and May. Only fifty-three of the ninety regular issues are extant. Complete runs exist for the *Richmond Virginia Gazette and Weekly Advertiser*, *Richmond Virginia Independent Chronicle*, *Winchester Virginia Centinel*, *Winchester Virginia Gazette*, and *Lexington Kentucky Gazette*. The *Virginia Independent Chronicle* also published at least four extraordinary issues. The *Norfolk and Portsmouth Journal* has seven extant issues; the *Alexandria Virginia Journal*, one; the *Fredericksburg Virginia Herald*, one supplement; the *Petersburg Virginia Gazette*, none; and the *Richmond Virginia Gazette and Independent Chronicle*, none. (For a full discussion of the ten newspapers, see RCS:Va., xliii–xliv.)

As before, newspapers were filled with a wide variety of news items. In April, they continued to report the results of and the commentaries upon the March elections for state Convention delegates. (See II above.) More voluminous, however, were the news items from and about other states. These included: (1) reports on the prospects of ratification in Maryland, New York, North and South Carolina, and Rhode Island; (2) proceedings and debates of the Massachusetts Convention and its recommendatory amendments to the Constitution; (3) reports of the Maryland Convention, including lists of delegates, proceedings, the vote on ratification, the Form of Ratification, and the amendments sought by the minority; (4) descriptions of celebrations of Maryland's ratification; (5) accounts of the riot in Dobbs County, N.C., during the election of state convention delegates, and lists of elected delegates; (6) reports concerning Rhode Island's statewide referendum defeating the Constitution; (7) accounts of the ongoing conflict over the Constitution in Pennsylvania, including the petition campaign to overturn ratification; (8) speculation that George Washington would be the first President under the Constitution; and (9) rumors

of alleged British encroachments in Kentucky and the northern United States.

Federalist essays published originally in Virginia were: "The State Soldier," V (George Nicholas?); "Cassius" I-III (an answer to Richard Henry Lee's objections to the Constitution); "A Freeholder" (two essays); "Peregrine"; "A Virginian"; "An American" (Gouverneur Morris?); and an anonymous essay printed in the *Norfolk and Portsmouth Journal* on 28 May. The lone Federalist tract was "A Native of Virginia's" sixty-six-page pamphlet, *Observations upon the Proposed Plan of Federal Government . . .*, that answered objections to the Constitution.

Federalist items reprinted in Virginia from out-of-state newspapers included: "The Federalist" 16 (Alexander Hamilton), *New York Packet*, 4 December 1787 (CC:317); "Civis" (David Ramsay), *Charleston Columbian Herald*, 4 February 1788 (CC:498); a 28 February letter from George Washington to Caleb Gibbs praising Massachusetts' ratification of the Constitution, first printed in the *Massachusetts Centinel* on 22 March (CC:638-B); Postmaster General Ebenezer Hazard's defense of his refusal to allow printers to exchange their newspapers postage free, *New York Journal*, 21 March (CC:Vol. 4, Appendix II, 567-68); "An Elector" (Otho Holland Williams), *Maryland Journal*, 25 March; "K" (Benjamin Franklin), *Philadelphia Federal Gazette*, 8 April (CC:668); "Fabius" I-V (John Dickinson), *Pennsylvania Mercury*, 12, 15, 17, 19, 22 April (CC:677, 684, 690, 693, 699); and "An American" (Tench Coxe) to the members of the Virginia Convention, *Pennsylvania Gazette*, 21 May.

Federalists in other states occasionally sent material into Virginia. In April, the first volume of *The Federalist* (Alexander Hamilton, James Madison, and John Jay), printed in New York City, was advertised for sale in Norfolk and Richmond, and dozens of copies were sent from New York City to Richmond by Alexander Hamilton for distribution in the Virginia Convention. (See "The Circulation of the Book Version of The Federalist in Virginia," 2 April, below.) In late May, copies of the book edition of the Massachusetts Convention debates were forwarded to James Madison; while the printed debates of the Pennsylvania Convention, which first went on sale in February, continued to be advertised. (See Cyrus Griffin to James Madison, 26 May, below, and "Advertisement for Thomas Lloyd's Debates of the Pennsylvania Convention," 7 February, CC:511.) A few Virginians also received copies of pamphlets by "Aristides" (Alexander Contee Hanson of Maryland) and "A Citizen of New-York" (John Jay). (For "Aristides," see CC:490, and RCS:Va., 521, note 2; and for "A Citizen of New-

York," see George Washington to Jay, 15 May, note 3, below, and CC:683.)

The most substantial original Antifederalist item written immediately before the state Convention was a twenty-four-page pamphlet by Convention delegate James Monroe addressed to his constituents. Because he was dissatisfied with the pamphlet's content and the typography, Monroe suppressed its publication. The *Virginia Independent Chronicle* printed several significant Antifederalist items including a revision of the Constitution and a proposed declaration of rights, drafted by a "Society of Western Gentlemen"; "An Impartial Examiner" II; and an essay by "Brutus" answering "Cassius." (For another political club that revised the Constitution during the spring of 1788, see "The Political Club of Danville, Kentucky, Debates over the Constitution," 23 February–17 May, RCS:Va., 408–17.) Other original Antifederalist articles, especially on the controversy over newspapers and the mails, were printed in the Winchester *Virginia Gazette* and Petersburg *Virginia Gazette*. (See "The Post Office and the Circulation of Newspapers," 26 March–9 April, RCS:Va., 517–20; and "Mentor," Petersburg *Virginia Gazette*, 3 April, below.)

Virginia newspapers apparently reprinted fewer Antifederalist than Federalist items from other states. Significantly, none of the major serialized Antifederalist essays has been found. The Antifederalist items that were reprinted include: a poem entitled "On the New Constitution," *State Gazette of South Carolina*, 28 January (CC:481); "Manco," *Maryland Journal*, 18 March (CC:Vol. 4, Appendix II, 561–62); an alleged letter of George Bryan of Pennsylvania dated 12 March, *Pennsylvania Gazette*, 26 March (CC:647); and a report that the Massachusetts legislature was critical of the actions of both the Constitutional and Massachusetts conventions, Philadelphia *Freeman's Journal*, 16 April (CC:Vol. 5, Appendix I).

#### *Private Commentaries on the Constitution*

The extraordinary volume of private correspondence on the Constitution in Virginia that began in September 1787 continued in April and May 1788. Letter writers predicted how prominent individuals and different sections of the state would align on the Constitution. As the election returns for delegates to the state Convention became known, correspondents generally concluded that Federalist delegates outnumbered their opponents, but that neither side had a clear-cut majority. Consequently, Federalists were concerned about the strength of Antifederalism in Kentucky, and they wrote to the District's Convention delegates encouraging them to support ratification. Antifed-

eralists, on the other hand, did not despair over the election returns; they believed that the Constitution could be defeated or its ratification delayed, especially if other states joined them in an effort to amend the Constitution before its adoption. Toward this end, Virginia Antifederalists tried to cooperate with New York Antifederalists, while Federalists encouraged political allies in Maryland and South Carolina to work for immediate, unconditional ratification.

Correspondents speculated on the prospects of ratification in Maryland, North and South Carolina, New Hampshire, New York, and Rhode Island, and on the impact that these states would have on Virginia. They were surprised when the New Hampshire Convention adjourned to a June session without ratifying the Constitution, and Federalists were fearful that the Maryland and New York conventions might do the same. Such delaying tactics would revitalize Antifederalists throughout America and make Virginia ratification more difficult. Prominent politicians discussed strategies to follow in the Convention, particularly with respect to the role of proposed amendments to the Constitution and the possibility of a second constitutional convention. While most correspondents were concerned with constitutional and political arguments, others discussed the impact that the Constitution would have on the value of public securities, the payment of private and public debts, the improvement of commerce, the free navigation of the Mississippi River, and the settlement of pre-Revolutionary claims of land companies.

**St. Jean de Crevecoeur to William Short  
New York, 1 April (excerpt)<sup>1</sup>**

... I am as Anxious to learn what is going on in Europe, & in particular in France as you are Impatient to know of the Progress that the new Constitution is making—6 States have already accepted it as you already doubtless know [from your Letters?], the adoption by Massachusetts was only by a Majority of 18. in the course of the Month we will know what Maryland will do.—here it is said that the most important People are all federalists; but that is not the case in Virginia, Mr. Maddisson left us almost a Month ago to return to Virginia, where his Friends had a great desire to elect him a Member of the Convention for the County where he lives; the two parties are preparing themselves for the debates that I fear will be long & full of rancor—Until now the choice that was made appears to be favorable & in order to give you an Idea of it I am sending you the List of those who have already been elected<sup>2</sup>—Gl. Washington Always Wise & Modest, says Nothing,



although his Name has a great Influence on the opinion of a great many People—they say that the greatest obstacle to the adoption of the new Constitution in Virginia, are debts & dignity; in effect, one can see that those who owe much look to put off the Establisht. of a Govt. that promises to all the most Impartial Justice—as for dignity, say those who know Virginia better than I, there are a great many People who fear to see their personal Importance eclipsed, by the brilliance of a truly Federal & Energetic Govt.—we have not yet had news of the Election of Mr. Maddisson it will not come until Saturday's Post—in the most antifederalist Counties, the people have elected as delegates not those in whom they have had confidence up to now but several Sheriffs which appears a little Extraordinary, furthermore that happened in not a few Counties—One waits at this Moment of such great Importance for the choice that everyone is Interested in, & I, a great federalist, Judge as if I were right there—in effect, (To be or not be a nation, what alternative,)<sup>3</sup> destruction or to plunge into anarchy, & divisions; if it forms two Confederations as P. Henry wishes, goodbye to the Peace & the happiness of this Country. . . .

1. RC (Tr), Short Papers, DLC. For a longer excerpt, see CC:655. The letter was endorsed: "Crevecoeur—April 1./June—14." The first portion of it (not printed here) is almost entirely in English, while the rest is in French.

2. Crevecoeur probably refers to a list of delegates reprinted in a New York City newspaper from Virginia newspapers. Such lists appeared in the *New York Journal* on 28 March and the *Daily Advertiser* on 29 March.

3. The text in angle brackets is in English.

### George Washington to Benjamin Lincoln Mount Vernon, 2 April<sup>1</sup>

I have to acknowledge the reception of your favor of the 24th. of Feby;<sup>2</sup> which I have delayed answering till this time in expectation of being able to give you some information of what will probably be the determination of this State, upon the Constitution; but the proceedings of New Hampshir[e], so directly opposite to what we had reason to hope for, from every account, has entirely baffled all calculation upon the subject; and will strengthen the opposition here; (the members of which are not scrupulous in declaring, that, the adjournment was with design to know the result of this Convention.—)<sup>3</sup>

The only ground upon which an opinion can be formed of what will be the decision here, is, the return of the members for the Convention; of these I have as yet seen but a partial list, and of this list there are many who are unknown to me; so that I am not able to give you any more satisfactory information upon the Subject than when I wrote last

to you.—This, however, I may say, that the Northern, or upper Counties are *generally* friendly to the adoption of the Government, the lower *are said* to be generally unfriendly, the Sentiments of the western parts of the State are not fully known, but no means have been left untried to prejudice them against the system.—Every art that could inflame the passions or touch the interests of men has been assayed.—The ignorant have been told, that should the proposed Government obtain, their lands would be taken from them and their property disposed of.—and all ranks are informed that the prohibition of the Navigation of the Mississippi (their favourite object) will be a certain consequence of the adoption of the Constitution.—But notwithstanding these unfair and unjust representations, I do not despair of its adoption in this State.—

1. RC, The Original Letters of George Washington to Benjamin Lincoln, Harvard University. Washington wrote on some of the same subjects in letters to Henry Knox, John Langdon, and Caleb Gibbs on 30 March, and 2 and 3 April, respectively (RCS:Va., 521–22; and Fitzpatrick, XXIX, 452–53).

2. Lincoln's letter of 24 February reported that "many" of the delegates to the New Hampshire Convention were instructed to vote against the ratification of the Constitution and were bound to obey their instructions even though some wanted to ratify. Consequently, "it was thought best to adjourn" the Convention because "it was not probable that a majority" supported ratification (Washington Papers, DLC). For a full discussion of the adjournment of the New Hampshire Convention, see CC:554.

3. The text in angle brackets is not in the letterbook version (Washington Papers, DLC).

### Collin McGregor to Neil Jamieson New York, 2 April (excerpt)<sup>1</sup>

... As for the final Settlements shd. the Constitution be adopted in Virga. I would not be Surprised to See them from 6 to 8/. for a little; if they get to either price I think it would be prudent to Strike & be done with them.<sup>2</sup>—The opinions we have from Virga. are various, but Genl. Washington seems to have little doubt of its being adopted.<sup>3</sup>—I have wrote Colo Jamieson<sup>4</sup> for his opinion, and given him the State of our Market for Securities & the opinions held here respecting those [---] [---] knows that he has some of yours on hand.—should Virga. not adopt, I fear there will be confusion in this Country and Securities will of course fall;—I will have pretty Certain information, and be prepared accordingly, for in this event better take even 4/. ☞ 20/. (the price going here) than trust to the Issue of ~~anarchy~~ what Convulsions may happen if Virga. holds out, which may be an Appeal to Arms & the Cause of a Civil war; and what probably will follow, not only disabbility to pay but a real intention to Annihilate the former

Domestick debt.—If this dismal event should unfortunately take place it will, in the most favorable light, be the means of heaping New burdens & reduce the value of Securities.—I hope however matters will be accommodated & peace & harmony prevail. . . .

1. FC, Collin McGregor Letterbook, 1788–1789, NN.

2. On 1 April Andrew Craigie of New York City, a speculator in public securities and an apothecary, wrote that “public Securities on which interest has been paid to the end of the Year 86 are  $\frac{3}{5}$  &  $\frac{3}{6}$   $\text{of } \text{£}$  & I believe will continue to rise while the prospect continues favourable for the Establishment of the New Constitution which at present looks up well & will be out of danger if Virginia accedes” (to Daniel Parker, Craigie Papers, American Antiquarian Society, Worcester, Mass.).

3. On 28 February George Washington wrote Caleb Gibbs of Boston, and on 22 March the *Massachusetts Centinel* printed an excerpt of this letter in which Washington wrote that he had “no doubt” that Virginia would ratify the Constitution (RCS:Va., 427–28; and CC:638–A). Forty-nine newspapers—six of them in New York—reprinted this excerpt.

4. Possibly Lieutenant Colonel John Jameson, a planter and the clerk of the Culpeper County court.

## A Virginian

### Norfolk and Portsmouth Journal, 2 April<sup>1</sup>

MR. PRINTER, The Fœderal Republican has ignorantly or designedly misunderstood me; I did not positively say that the proposed plan of government was the best which could be possibly devised; but that the inundation of scurrility and falshood poured out against it, was no inconsiderable proof of its merit. If he will cast his eye upon the *Centinel*,<sup>2</sup> and several other writers in the Philadelphia, New-York, and Boston papers, and call to mind what has passed in his own bosom, when pressed for arguments to support a bad cause which interested him, how much he has felt inclined to substitute invective for argument, and falshood for truth, he will be no longer at a loss for the propriety of my observation.—Supposing upon this proof, the Constitution to be good—where is the absurdity in the remark “of every system of government being liable to objections, &c.” But perhaps the Fœderal Republican is yet to learn this melancholy truth, that human precaution avails but little against the designs of ambitious men, when the people are corrupted and enervated by luxury, which prosperity and riches never fail of producing.

If the proposed new plan of government is fraught with the evils ascribed to it, the two illustrious personages<sup>3</sup> who signed it, have certainly given their names to these evils, and of course, my surprise at so improbable a supposition, was natural enough.

From the ironical style and manner of the Fœderal Republican’s last production, he, doubtless conceives himself a wit—be it so—I should

be loth to dissipate any illusion of innocent self-love which nature has kindly mixed in the cup of life to sweeten the bitter draught.—I must notwithstanding absolutely decline a further correspondence with him, unless he will point out his objections to the New Constitution in a consistent manner; then I shall take pleasure in endeavouring to refute them in the most concise, clear, and decent mode I am capable of.—Idle controversies from which neither honor or profit can possibly accrue, have ever been my aversion; and a victory in some cases I deem more disgraceful than a defeat in others.

1. "A Virginian" responds to an essay by "A Federal Republican" that probably appeared in the no longer extant *Norfolk and Portsmouth Journal* of 26 March. For an earlier exchange between these two essayists, see the *Norfolk and Portsmouth Journal*, 5 and 12 March (RCS:Va., 457–59, 480–82).

2. For "A Virginian's" attack on "Centinel," see RCS:Va., 481.

3. The phrase "two illustrious personages" (i.e., Benjamin Franklin and George Washington) was taken from "Centinel" I (CC:133).

## Peregrine

Winchester Virginia Gazette, 2 April<sup>1</sup>

*To the AMERICANS.*

I have observed that the Yeomanry, or people of the middling class, are of all men most easily misled by the artful and designing; the reason is obvious, sincere and open themselves, they believe every other man equally sincere, and place implicit confidence in the assertions of men in a superior station, whom they suppose to be better acquainted with subjects of general concern. The honest Rustic who appeared in the Winchester Gazette of the 19th inst. seems to be of this character, he expresses great affection for his country, which I doubt not is genuine; he seems much alarmed, I give him credit also for his sincerity in that respect. The cause of this alarm may be readily accounted for; he may have considered the bold, unfounded assertions of the Pennsylvania Faction,<sup>2</sup> whom their emissaries have had the amazing effrontery to hold up as the deliverers of their country, as indisputable truths, and their sophistical arguments as the soundest reasoning; else what could give birth to the following paragraph: "The happy state of America in the enjoyment of liberty, roused up the envy of the sons of pride, who never could bear with the happiness of the people in any part of this world, have formed a Plan of Government incompatible with, and subversive of those virtuous plans established by our brave and worthy patriots of the late revolution." The man must have been taught, that those who formed the plan of federal government, were very different men from those who brought about the revolution; yet you will find

their names enrolled among the most eminent heroes and patriots who achieved that great event. He must likewise have been made to believe, that the spirit of the proposed plan is averse to the principles of the revolution, whereas it is not only congenial with those principles, but is most evidently calculated to support them, and to secure to you the benefits for which "your brave and worthy patriots" fought and bled; I mean your strength and dignity as a nation, your peace and liberty as citizens. For these purposes a Congress was instituted and invested with the powers of raising armies, and directing the levying of taxes for the support of these armies, which to the Ploughman appears so dangerous. A recommendation of Congress was, in the early period of the war, a law to every assembly—to the several assemblies therefore, in the first attempt to cement your union, was the mode of levying taxes referred; but a few years experience taught you the inefficacy of recommendations, and that the more zealous states must bear the whole burden or have recourse to arms, to enforce a compliance on the part of the delinquents; to prevent a measure so shocking to humanity, and so destructive to your peace and liberty, the states united in appointing the late Federal Convention who devised the means of carrying the resolutions of Congress, with regard to taxation into effect, in the usual method, by application to individuals, giving the people at the same time the right of choosing their representatives, by whom their taxes are to be assessed. Is there any thing in this to authorise the assertion "that by the federal constitution every soul in America will be slaves." On what then is it founded? The Ploughman tells you, that a standing army is made an essential of the Federal Constitution, but it is impossible that a man possessed of common sense, altho' he never moved in a higher sphere than at the ploughtail, if he will depend on the exercise of his own reason, can believe, that the keeping up a standing army is essential in any case where the defence of the country does not render it necessary—of this necessity Congress is to judge. A power which the present Congress possesses, and which the prince supreme council, or legislature of every nation must possess. The Ploughman mentions *Lord Walpole* as a minister of state in England; to cavil at the mistake of a name or title, might be thought trifling, but this mistake indicates the writer to be really of no higher rank in life than his signature denotes; for the name of *Sir Robert Walpole* is so familiar to every one acquainted with the history and politics of the reign of George the second, that it is evident the Ploughman's conversation hath not been amongst men of intelligence; he appears to be equally unacquainted with a most interesting part of the British history, during the last century. A period in which the dreadful consequences of civil dissensions, and of the baneful influence

of wicked men acting under the mask of patriotism, are held up as a beacon to warn you to avoid those fatal rocks and quicksands, by embracing a government which is calculated to remove every cause of dissention that lies within the reach of human foresight. But what has my honest Ploughman, in the simplicity of his heart, been made to believe?

That the army of Charles the first "set up the tyrant Cromwell; that they would have murdered him, had he not concealed himself; that they hanged him after he was dead; and that the same army set up the tyrant Charles the Second." Now the truth is, that Cromwell, having by the most shameful prostitution of the names of religion and patriotism, obtained a high rank and great influence in the army, which during the civil war had been opposed to Charles the first, after the death of Charles, made use of that army to establish his own power, which the divided, weakened state of the nation, enabled him to accomplish. Charles the second was not restored by the army, but by the voice of the people, in direct opposition to the views and wishes of the army. It is true General Monk concurred in the measure, but it is equally true that he had not at his devotion more than one fourth of the army, and that he did not determine on the part he should take until he discovered how the popular current ran, and until such of the officers as were deemed most likely to oppose the restoration, had been cashiered or imprisoned. The bones of Cromwell too were not hanged by the army, but by order of Parliament, with those of other Traitors who were attainted by an act passed subsequent to the restoration. The history of that period deserves the serious attention of every American, but I cannot enlarge upon it; though my time is generally employed in travelling and observing the manners and sentiments of mankind, my arrangements will not admit of my tarrying longer in this pleasant Village; if what I have wrote shall tend to prevent the delusion of any worthy American, it will give the most sensible pleasure to *PEREGRINE*.

*Winchester, March 29, 1788.*

1. "Peregrine" replies to "A Ploughman," 19 March (RCS:Va., 507-9).

2. A reference to the "Dissent of the Minority of the Pennsylvania Convention," *Pennsylvania Packet*, 18 December (CC:353) that was reprinted in six installments in the *Winchester Virginia Gazette* from 1 February to 14 March. (For the circulation of the "Dissent" in Virginia, see RCS:Va., 401-2.)

### **Cassius I: To Richard Henry Lee, Esquire Virginia Independent Chronicle, 2 April**

On 2, 9, and 23 April three unnumbered letters, signed "Cassius" and addressed to "Richard Henry Lee, Esq.," were printed in the *Virginia Independent Chronicle*. "Cassius" criticized Lee's 16 October letter to Ed-

mund Randolph and the amendments to the Constitution enclosed therein that Lee had proposed in Congress on 27 September (RCS:Va., 59–67).

The three letters were dated 12 and 28 March and 9 April, but they apparently were written earlier. On 17 February Joseph Jones of King George County had written James Madison that the 20 February issue of the *Virginia Independent Chronicle* would contain “another publication under the signature of Cassius agt. R. H. L. You shall have it if printed” (RCS:Va., 381). It is unclear how Jones knew about the letters three weeks before the first one was presumably written—perhaps he was the author or served as a conduit in getting the manuscript letters to the printer.

The first two letters were reprinted in the Winchester *Virginia Centinel* on 23 April and 7 May, respectively. At the end of the reprint of the second letter, the printer indicated that the series would be continued, but it was not. All three letters were reprinted in the New York *Daily Advertiser* on 24, 26, and 29 April, and 8, 12, 13, 19, and 20 May.

SIR,

March 12, 1788.

Every man, who will, impartially, reflect for a moment, must acknowledge, that opinions have been insidiously disseminated, respecting the federal constitution, which are entirely devoid of truth. They have acquired reputation, and obtained belief, merely by being repeated from one to another. Circulating with a rapidity not to be resisted, they have, unhappily, roused in the minds of many honest characters, a violent opposition. How much you have, designedly, contributed to inflame this opposition, an impartial investigation of your letter will determine.

You say “It has hitherto been supposed a fundamental maxim, that in governments rightly balanced, the different branches of legislation should be unconnected, and the legislative and executive powers should be separate.”

The experience of the English government, and the opinions of the most eminent writers on this subject, whose *abilities*, I will not say *integrity*, merit greater confidence, than yours, contradict in the strongest language, this assertion. Are the branches of the legislature of that government “*unconnected*,” in which the *King*, who alone composes *one* branch of the legislature, has the power of conferring by his charter upon any set, or succession of men, he pleases, the privilege of sending representatives to *one house* of parliament, and who can place by his immediate appointment, whom he will, in the *other*? Are the *legislative* and *executive* powers in that government “*separate*,” in which the *King*, who has the *whole* of the executive, occupies *one entire* branch of the legislative? Recollect yourself, sir, does not the house of *lords* partake of all the branches of powers? May they not, as *hereditary counsellors* of the crown, be called upon by the *King* for their advice in all matters of importance to the realm, either during the session or adjournment

of parliament? And do they not in this capacity partake of the executive power? Is not the house of lords, also, altho' one branch of the legislature, the *supreme court* and *dernier resort*, in all judicial matters. These are questions, which you dare not deny. What then becomes of your assertions? Silence, Richard, experience is against you.

Let us, now, see what your favorite author Blackstone, says on this subject—"In all tyrannical governments the supreme magistracy, or the right of *making* and *enforcing* the laws, is vested in one and the same man, or one and the same body of men; and whenever these two powers are united together, there can be no public liberty."<sup>1</sup> From this it appears, that liberty is *only* endangered, when *the whole* of the power of both making and enforcing laws is vested in one man, or in the same body of men. This observation is more fully proved, by what the same author, farther says, with the greatest perspicuity on this subject. "But where the legislative and executive authority are in distinct hands, the former will take care not to entrust the latter with so large a power, as may tend to the subversion of its own independence, and therewith of the liberty of the subject. With us therefore in England, this supreme power is divided into two branches, the one legislative, to wit, the parliament, consisting of King, lords, and commons: the other executive, consisting of the King alone."<sup>2</sup> In another place he says, "It is highly necessary for preserving the balance in the constitution, that the executive power should be a branch, though not the whole of the legislature.["] "The *total union* of them," he continues to say "we have seen, would be productive of tyranny; the *total disjunction* of them, for the present, would in the end, produce the same effects, by causing *that union*, against which, it seems to provide. To hinder therefore any such encroachments, the King is himself a part of the parliament; and as this is the reason of his being so, very properly therefore the share of legislation, which the constitution has placed in the crown, consists in the power of rejecting, rather than resolving; this being sufficient to answer the end proposed."<sup>3</sup>

Richard Henry Lee, what say you? Are these quotations just or not? I dare you to speak out. I should not, sir, have produced them, did I not conceive it necessary to convince the world, that you are either *totally* ignorant of the subject on which you write, [or] that you have *ungenerously* attempted to deceive the people against your better information.

We see, then, from this celebrated writer, that the negative, given to the King on the proceedings of both houses of parliament, was conceived absolutely necessary to preserve the balance of power, although the King, at the same time, exercises the whole executive



power. If this is just, what objection can be made to the small, very small share of legislation given to the president by the foederal constitution, which says, "Every bill, which shall have passed the house of representatives and senate, shall before it become a law, be presented to the president of United States. If he approve, he shall sign it, but if not, he shall return it, with his objections to that house, in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall, likewise, be reconsidered, and if approved by two-thirds of that house, it shall become a law." This limited interference of the president, appears, in my humble opinion, to be intended, as a check, or rather as a friendly office, by which he may entreat both houses to calmly reconsider any point, on which he may entertain doubts, and feel apprehensions. That part of the constitution, which makes two-thirds of both houses necessary to the passing of a law, in consequence of the president's negative, will certainly obtain your *weighty* approbation; because, as the president will, perhaps, only interfere in capital occasions, it would have, nearly, the same effect, as if that proportion of both houses had been required to enact the law in the first instance. Should you *graciously* condescend to coincide with me in this opinion, I would, joyfully, congratulate the friends to the constitution on the *invaluable* acquisition. It would, *to be sure*, be a most *important point* gained.

You say, "that the president and the senate having the power of making treaties, which are to be considered, as the laws of the land, is highly dangerous." Do you, sir, really think, that this power, *thus* exercised, can be productive of any dangerous consequence? But, why do I ask this question? A mind, which delights, like yours, to indulge itself in *political reveries*, is capable of conceiving any idea, however absurd, and being startled by any danger, however visionary. You cannot but know, sir, that the power of making treaties is safely exercised in other countries, by the executive authority alone, and that the treaties, when made, become the laws of the land. Have you not read, that this power is given to the executive authority alone by the British government, and that the treaties, when made, are pronounced to be the supreme laws of the land?<sup>(a)</sup> Do you not know, that in *Massachusetts*, their court determined, that the definitive treaty of peace, between America and Great Britain, superseded the laws of *that* state, which forbid suing for British debts, and of consequence, was considered by *that* state, as the supreme law of the land.<sup>4</sup> Of these circumstances,

you cannot, sir, be ignorant. Stand forth, then, *thou deliberate deceiver* of the people, and answer, without equivocation or disguise, the following interrogatories. Has not the power of making treaties been, always, considered, as a part of the executive? Do you not, sincerely, believe, that the concurrence of the senate with the president, in the execution of this power is a happy innovation in the fœderal constitution? Will it not afford a *strong additional security* to the people for its faithful performance? Do you not conceive it to be one of the *loveliest features* of the new constitution? *My God!* can it be possible, that there is a man existing who, at this awful period, and on such a solemn occasion, is capable of publicly avowing opinions, which are calculated, only to mislead? Have you vainly supposed, sir, that the good people of this country were destitute of both spirit and understanding? If you do, you will permit me, sir, to inform you, as I am not personally your enemy, that we have reason to understand, and spirit to resent.

“The only check,” you say, “to be found in favor of the democratical principle in this system is, the house of representatives which, I believe, may justly be called a mere shred or rag of representation. It being obvious to the least examination, that smallness of number and great disparity<sup>5</sup> of power render that house of little effect to promote good or restrain bad government.” Many of your objections, sir, are so extremely puerile and absurd, that I can, scarcely, reconcile it to myself you are serious. How can that house of representatives be called “a mere shred or rag of representation,” when it will consist of men elected by the unbought, unbiassed suffrages of a free, virtuous, and enlightened people? How can it be said that they want power, when no act, however trivial, can take place without their assent, and when not *one shilling* of the public money can be touched without their approbation? In England, although the King has ten offices at his disposal, for one, the president and senate have, and an annual revenue for life, of one million two hundred thousand pounds besides, yet the house of commons, venal as it is, has been found by experience to be a sufficient counterpoise to his influence.

Your objection to the “smallness of number” is equally unsatisfactory.—The British house of commons, consisting of more, than five hundred members, is supposed to be, always, under the influence of the crown by bribery of different kinds. If this, sir, is true, you must agree with me, that in the government, in which the representatives are elected in such a manner, as to make them liable to bribery, the only difference is, that it would take less money to bribe one hundred, than five hundred, and as the sums, which are lavishly given in bribery,

are levied on the people, the fewer members there are to bribe, the less money would the people be obliged to pay. But in the fœderal government the house of representatives cannot be bribed until the body of the people will become corrupted. Each member will represent thirty thousand souls, and as he will be elected every two years, we have every reason to suppose, that he will continue virtuous, until his constituents shall become venal. In England, the representatives of large counties and cities, such as London and Middlesex, always discharge their duty, when those, who are elected by small places, are generally the partisans of the crown. And why?—Because the constituents of the former, being more numerous, cannot be bribed, when those of the latter, being, in many places, very few in number, are easily corrupted. If then, the representatives from large counties and cities faithfully discharge the trust reposed in them, in a septennial parliament, is there not much more reason to expect it in a biennial one?

The number of the house of representatives is limited, at present, to sixty-five, but Mr. Mason informs us, that this was determined upon by the general convention, at a time, when it was intended to give a representative, only, to every forty thousand souls.<sup>6</sup>—As the number to each representative is reduced, by the constitution, to thirty thousand—and, as this regulation will take place in three years, at farthest, the number of the house of representatives will consist, at least of eighty-four. But, as I am inclined to believe, that the number of souls in America amounts to three millions, the house of representatives will, then, consist of one hundred members, and will increase, in proportion, as, our numbers increase. It is, also, sir, to be believed, that the fœderal house of representatives will consist of men of unsullied reputations;—of men, in whose bosoms the *sacred* principle of patriotism has, *always*, glowed in its utmost purity;—of men, who, in every possible situation of affairs, have, *invariably*, discovered an uncorruptible attachment to their country;—of men, sir, who have, *violently*, opposed the odi[o]us laws of a British government, and steadily viewed, with strong abhorrence, every arbitrary measure, which *that* power, insidiously, pursued to enslave us. This is not, sir, an exaggerated description. The day will arrive, when you shall see it realized; and, trust me, sir, I had *you* in contrast, when I drew the *picture*.

(*To be continued.*)

(a) 3d Burrows, 1481—Lord Mansfield—“What was the rule of decision: the act of parliament, or the law of nations: Lord Talbot declared a clear opinion, that the law of nations, in its full extent, was part of the law of England.”<sup>7</sup>

*4th Burrows, 2016, Lord Mansfield, "the privileges of public ministers and their retinue depend upon the law of nations, which is part of the common law of England. And the act of parliament of 7 Ann, C. 12,—did not intend to alter, nor can alter the law of nations. ["]*<sup>8</sup>

*If an act of parliament cannot alter the laws of nations, then, so far, as it is opposed to the compliance with the treaty, it is void; and therefore all treaties, when made, by the proper powers, are the supreme laws of the land.*

1. Blackstone, *Commentaries*, Book I, chapter II, 146.

2. *Ibid.*, 146–47.

3. *Ibid.*, 154. The italics in this quoted material were added by "Cassius." "Cassius," however, removed Blackstone's italics from the words "rejecting" and "resolving" in the last sentence. He also omitted a large portion of text after the sentence that ends with the word "provide."

4. On 30 April 1787 the Massachusetts General Court, acceding to Congress' request of 13 April, passed an act repealing all Massachusetts acts or parts of acts that were "repugnant to the Treaty of Peace" of 1783. The act further stated that "the Courts of law and equity within this Commonwealth, be, and they hereby are directed and required in all causes and questions cognizable by them respectively, and arising from, or touching the said Treaty, to decide and adjudge according to the tenor, true intent and meaning of the same; any thing in the said acts, or parts of acts, to the contrary thereof, in any wise notwithstanding."

5. In Lee's 16 October letter: "great comparative disparity" (RCS:Va., 62).

6. George Mason appended this statement as a footnote to his objections to the Constitution (RCS:Va., 46).

7. Burrow, *Reports*, III, 1481. Lord Mansfield was quoting a 1736 opinion of Lord Talbot while hearing two cases in 1764—*Triquet and Others v. Bath and Peach and Another v. Bath*. Sir William Blackstone was one of the lawyers for the plaintiffs.

8. *Ibid.*, IV, 2016. Lord Mansfield made the statement while hearing the case of *Heathfield v. Chilton* (1767).

## The State Soldier V

### Virginia Independent Chronicle, 2 April<sup>1</sup>

*To the GOOD PEOPLE of VIRGINIA, on the new FEDERAL CONSTITUTION, by an old STATE SOLDIER, in answer to the objections.*

It is now my intention to examine into that class of objections in which it is said our interests are concerned; and in doing that I shall have answered such of the objections to the new constitution as appear worthy of notice.

If a general union be necessary for the preservation of the continent at large, whatever tends to that object most, comes nearest the interest of every particular part. Whence it follows that the interest of any individual state cannot be endangered by that policy which promotes the general welfare of the whole; but on the contrary must be strength-

ened with that of the rest, or else it never can be the interest of the union which is promoted.

It would only seem necessary therefore to prove that this constitution will promote the interest of the whole continent to shew its salutary effects on every particular state—yet, before I claim the advantage which so just a position in itself would give, I shall (in disseminating the seeds of refutation in other points) endeavor to supplant all doubts on that head, by means also, more local and particular. And in order the more clearly to do that, I shall endeavor to examine into the objections themselves;—the first of which, is that, which relates to the expensiveness of the plan;—and the next, a dread of the superiority of the northern states over the southern in Congress:—which together, acting in such diametrical contradiction to each other, render it necessary, to consider the two as nearly together as possible, thereby to prove the futility of both. The last of which however, so far as it respects the present instant, may perhaps hold good—and has indeed been admitted in a former paper,<sup>2</sup> and ought now to serve as a hint to shew the impropriety of attempting to amend the constitution at a time, when those states, whose influence we dread, will have it in their power to shape it as they please. But when considered as an objection to a government which is to last for many ages over a country like this, must appear not only trifling, but even applicable to the very reverse of things. For let us but consider this objection as connected with our geographical knowledge of America, and we shall find its weight preponderating in favor of the southern scale in the end.

The northern states, in comparison, contracted in their limits and already replete with inhabitants, even at this time feel the extent of their future influence in the union—whilst those to the south, though rich and extensive, yet thinly inhabited, look forward to a future population which presages a superiority unknown at present.

But considering this constitution even as unconnected with future events, how contradictory is this objection in itself!—“This government is to promote the interest of the northern states,” and at the same time hold out the destruction of the rest on whose approbation, as well as their own, its adoption and continuance depend. Whence alone we might infer that no such material objection could exist in reality should the constitution take place;—for as nothing less than the approbation of a large majority of the states can procure the adoption of this government, and nothing else than its being the interest of that majority could obtain such an approbation, so even the adoption of it, in itself, will imply its being the interest of more than seven of the northern states, since we know it will require more than the consent

of that number to set it in motion. And thus too from the same mode of reasoning it may be reduced to a certainty that no such influence could be exerted even should it be found to exist;—for as the same causes which establishes must remain to support it, nothing need be apprehended from an influence, the very exercise of which would be a means of destroying the advantage itself, as nothing could induce so considerable a part of the continent to continue a connection which was to prove the destruction of themselves.

But let us now examine how this objection will square with that of the expensiveness of the plan. Between which, while we admit the propriety of the one, we shall destroy the force of the other. For if nothing but a separation of the states can cure the baneful influence of one part of the continent over the other, while that influence arises from a superiority of a number in that particular part, so nothing but a confederation of the whole can lessen the expence of the weakest part; and this I will prove from the two objections themselves, together with a short contrast on that head between a general confederation and two or more separate ones.

The advantages to be derived from one general government, are, that the necessary disbursements of state will be drawn from the whole continent and proportioned to the strength of each state—whereas under separate confederacies, though the expenditures of each would be nearly as great as the whole when united into one, they would be drawn from the few states within the separate union to which they belonged without regard to any inequality between them and the other states on the continent; which would make the expences of government, even were they no greater to the whole under one form than another, heavier to some, and lighter to others, than under one general head. And the difference, according to one of the foregoing objections itself, would unavoidably operate against the southern states;—for as it is on account of the disproportion of strength which the southern states hold to the northern that this constitution is in one instance objected to, so it will necessarily follow that the states which form southern confederacies will have most to pay, as those confederacies will be weakest when formed; and being weakest, and yet having the same to pay for their own support, will leave those states which form them with more to contribute than others forming stronger unions; as the fewer there are to make up the same sum at any time, so much the more must be contributed by each.

And thus this objection to the expensiveness of the plan, and that to the superior influence of the northern states, at present, operate in pointed contradiction to each other, and when taken together only

serve to prove the advantages of this constitution to the southern states in particular.

But having already denied that the present superiority of the northern states will remain a lasting objection to a general Union, I shall endeavor to prove the particular advantages which some of the southern states will receive from this plan, on the score of œconomy, from another consideration.

From the establishment of the present confederation until this day the whole of the continental expences have been defrayed by little more than seven states, of which Virginia is one. I say by seven states because four only having complied fully with the requisitions of Congress, seven others having furnished about half their quotas, and the rest nothing at all, leaves still upwards of five proportions unpaid. So that we who have heretofore been making up the deficiencies of others, have little reason to complain of the expensiveness of a plan, the very first object of which was to force an equal compliance from all the states, as well to discharge our foreign as domestic debts; the first of which if left to be collected by coercion and restraint might fall equally severe on the punctual and delinquent.<sup>3</sup>

Thus even in every local point of view this constitution is calculated to promote the interest of those very states which it has been supposed it would injure; and when examined into as distributing individual benefit by rendering general good, will be found equally interesting and desirable. And that being the general position laid down in the begining of this paper, I shall now advance to support it, and at once attack the main body of the enemy in their last retreat and strong hold,—which is, in the objection that makes the northern states the monopolisers of the carrying business.

Were I an East-Indian, a Turk, or an *Englishman*, I should in all probability find the same fault with this constitution; but as a Virginian and a *friend to my country*, I cannot object to the loss of an advantage which we never possessed, merely because it may be taken out of the hands of foreigners and put into those of our friends and neighbours; to enrich whom would be to strengthen ourselves.

Though even were there sacrifices to be made on that head by one state to another, the advantages arising from them would, on another principle, be felt in common by them all. For from the efforts necessary to give motion to a confederated republic, the different states, like the several parts of a complicated machine, must necessarily play into each other. Their sacrifices and advantages must be mutual and just;—for as there are certain proportions in mechanics necessary to form the powers of operation, so is there an equilibrium in government between

the interests of its several parts necessary to give it force. That whilst a general operation remains, there must be felt a mutual assistance throughout the parts. And thus all those different advantages would revolve to each in turn, which under separate confederacies would centre where they first inclined.

But then, the carrying business is not one of the cases in which concessions are necessary to be made from one state to another;—for even were it to be entirely yielded into the hands of the northern states, there could be no great loss to the southern in consequence of the surrender, as would be proved by the very act of giving it up: for nothing but its being more the interest of the southern states to cultivate the commodities intended for exportation, than to carry them to market, could make them yield that business to the northern states, when they possessed every natural advantage in as great a degree as themselves for carrying it on. Blessed with a soil productive of every ingredient necessary for ship building; and environed, as well as interspersed with as advantageous bays and rivers as nature can bestow, Virginia might vie with any quarter of the globe in the profits of a maritime exertion—a competition in which, would not only redound to the dignity and safety, but also the interests of all America, as it would be the means of rearing a navy on the continent, as well as fixing all the profits arising *from* that business among ourselves, which now centre in foreign bottoms. And such a competition would naturally arise from what is now supposed will be the consequence of throwing such a business into the hands of the northern states. For as the only mischief that could arise from such a monopoly would be their having it in their power to raise the freightage, so the very evil itself would tend to produce the happiest of all effects. The different states compelled by their opposite interests, on such an occasion, would naturally struggle against each other, whereby they would render the most important of all public services to the continent at large, while they would be establishing a proper balance between the landed and mercantile interests of the different states.

In fine, there is no one instance in which the interest of an individual state can be injured by the promotion of that of the whole; but on the contrary being so particularly advanced. And the interests of every country being so inseparable from the dignity, the honor, and the credit of it, consequently renders that government most its immediate advantage which is best calculated to promote all those. Whence it only remains to enquire now how far the plan under consideration advances that way, to determine its real effects on the interests of the states.



Under a general and efficient government the powers of the different states, drawn to a single focus, would no longer be left to scatter their feeble rays in vain across the continent, but penetrating to the very bottom of the state authorities would bring forth that which would restore life to the decaying plant of PUBLIC FAITH; and with that would spring both private confidence and individual wealth:—for as it is by the extent of credit alone that the true value of property can be ascertained, so is it by honesty only that real wealth can exist. And to know that this government will promote honesty, it only remains to be told, that under it, no interference with private contracts in future can take place, as the states are “prohibited from passing any law impairing the obligation of contracts;” nor can the value of any debt be lessened, as at present by an emission of any kind of money of less value than that in which it was contracted, since the states are “prohibited making any thing but gold and silver coin a tender in payment of debts;” neither can our credit as a nation *hereafter* be injured in the eyes of the world by the interference of the individual states in any foreign treaty, as the sole right of declaring war or making peace, “unless when actually invaded,” will be in the continental head.

And thus the day begins to dawn in America when all those pernicious authorities, now exercised in the different states, shall be lost in the general lustre of the whole government, whence PUBLIC JUSTICE in its usual splendor, firmly fixed, shall mark the NEW FEDERAL CONSTITUTION as the rising SUN of the western world.<sup>4</sup>

1. For the authorship, circulation, and impact of this series, see “The State Soldier” I, 16 January (RCS:Va., 303).

2. See “The State Soldier” II, 6 February (RCS:Va., 345–53).

3. A report by the Confederation Board of Treasury indicates that by 31 March 1788 Virginia had paid about 44% of its share of the specie and indents levied by congressional requisitions from October 1781 to October 1787. The other states had paid the following percentages of their shares: New York (67), Pennsylvania (57), South Carolina (55), Massachusetts (39), and Delaware (39), Maryland (29), Rhode Island (24), Connecticut (20), New Jersey (19), New Hampshire (12), and North Carolina (3). Georgia had paid nothing. (See PCC, Item 141, Estimates and Statements of Receipts and Expenditures, 1780–88, Vol. I, 75, DNA.)

4. Probably an allusion to a statement made by Benjamin Franklin at the signing of the Constitution. Franklin, who had doubts earlier, said that the sun painted on the back of the President’s chair at the Constitutional Convention was a rising, not a setting, sun. (See CC:77–B.)

### **The Circulation of the Book Version of *The Federalist* in Virginia Norfolk and Portsmouth Journal, 2 April**

The first essay of *The Federalist* was originally published in the New York *Independent Journal* on 27 October 1787. Shortly thereafter, several persons, including two of the authors, Alexander Hamilton and James

Madison, sent copies of the essays to Virginia, some of which were intended for republication in Virginia newspapers. By mid-January 1788 at least twenty-four numbers had been received in Virginia. Only essays 1-6 and 16, however, are known to have been reprinted in that state. Virginia's weekly newspapers were unable to keep up with such a prolific series. Moreover, as early as 2 December 1787, by which time fifteen essays had appeared in New York, James Madison had informed Edmund Randolph that he understood that the printer "means to make a pamphlet of them." (See "The Republication of The Federalist in Virginia," 28 November 1787-9 January 1788, RCS:Va., 180-83.)

On 2 January 1788 John and Archibald M'Lean announced in the New York *Independent Journal* that they would print *The Federalist* in book form. Two weeks later a similar announcement appeared in another of John M'Lean's newspapers, the *Norfolk and Portsmouth Journal* (CC:406). The announcement in the Norfolk paper said that *The Federalist* would cost one dollar (i.e., six shillings) and "as very few more Copies will be published than subscribed for" interested persons were encouraged to apply as soon as possible to the printing office in Norfolk. This advertisement was repeated in the *Norfolk and Portsmouth Journal* on 23 and 30 January and in the *Virginia Independent Chronicle* on 6 February and 12 March (extraordinary).

On 5 February George Washington, aware of the proposed book edition, wrote James Madison, then serving in Congress in New York City, asking him to forward three or four copies of the book, "one of which to be neatly bound, and inform me of the cost" (RCS:Va., 280). The publication of the first volume of *The Federalist*, containing thirty-six numbers, was announced in the New York *Independent Journal* on 22 March (CC:639-A), and two days later John Jay, the third author, sent Washington a copy of the volume (Washington Papers, DLC).

The *Norfolk and Portsmouth Journal* announced on 2 April that *The Federalist* was available. Subscribers were to pay three shillings a volume, and non-subscribers three shillings and nine pence. The *Journal* also indicated that the second volume was in press and that it would be published "with all possible expedition" (below). The *Journal* ran the advertisement again on 9 and 16 April, while a similar advertisement appeared in the *Virginia Independent Chronicle* on 23 and 30 April. One subscriber who paid for his copy in mid-April was John Marshall (Johnson, *Marshall*, I, 409).

On 5 April George Nicholas, recently elected from Albemarle County to the state Convention and unaware that Volume I of *The Federalist* was available, wrote fellow delegate James Madison that "if it is published can I get the favor of you to procure me thirty or forty copies of it, that I may distribute them; if they were sent to Orange or Richmond I should soon get them" (below). Three days later Madison replied that *The Federalist* would be printed in two volumes and that the first was "probably ready by this time. The other will be delayed a few weeks." He would "take measures" to get the number desired by Nicholas (below). Madison apparently wrote to Alexander Hamilton because on 11 and 19 May Hamilton replied that he had sent "40 of the common copies & twelve of the finer ones addressed to the care of Governor Randolph," another delegate to the state Convention. Hamilton also noted that "The Printer

announces the second vol in a day or two, when an equal number of the two kinds shall also be forwarded" (Rutland, *Madison*, XI, 41, 54).

On 28 May the New York *Independent Journal* announced that Volume II of *The Federalist* (containing forty-nine essays) was just published. The *Norfolk and Portsmouth Journal* informed its readers on 4 June that *The Federalist* could be purchased in two volumes at the printing office. Its advertisement reads: "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." The *Journal* reprinted the advertisement on 11 and 18 June and 3 September. On 11 June and 23 July the *Virginia Independent Chronicle* told subscribers that Volume II was just published and could be picked up at the post office. (Augustine Davis, the *Chronicle's* publisher, was the postmaster in Richmond.)

On 8 June, six days after the Virginia Convention convened, Alexander Hamilton wrote James Madison that copies of the second volume had been sent to Governor Randolph (Rutland, *Madison*, XI, 100). Some time later, Hamilton forwarded to George Washington (through James Madison) "a sett of the papers under the signature of Publius, neatly enough bound, to be honored with a place in your library" (Hamilton to Washington, 13 August, Syrett, V, 201). Washington replied: "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" (28 August, *ibid.*, 207. Washington's copy of *The Federalist* was offered for sale at Sotheby's in New York City on 31 January 1990.).

On 1 July, soon after the state Convention adjourned, James Madison sent his father copies of *The Federalist* to be given to Baptist ministers John Leland and Aaron Bledsoe, two former opponents of the Constitution. Madison said that he might send "a few more" for distribution (Madison to James Madison, Sr., 1 July, Rutland, *Madison*, XI, 185).

*This Day is published,*

THE  
FEDERALIST,  
VOLUME FIRST.

A desire to throw full light upon so interesting a subject has led, in a great measure unavoidably, to a more copious discussion than was

at first intended; and the undertaking not being yet completed, it is judged advisable to divide the collection into Two Volumes.

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 Second Volume is in the Press, and will be published with all possible expedition.

~~For~~ *Subscribers to the above valuable work in Norfolk and Portsmouth, will be waited on with the First Volume immediately; those who from their remote distance in the Country cannot be attended, are requested to send without loss of time, as the rapid demand for this book will render it impossible to preserve them long in the Store.*

*∴ Three Shillings at the delivery of the first volume—Non-subscribers 3s. 9d.*

Norfolk, April 2, 1788.

### **A Native of Virginia: Observations upon the Proposed Plan of Federal Government, 2 April**

On 2, 9, and 16 April, the weekly *Virginia Independent Chronicle* announced that Hunter and Prentis of the Petersburg *Virginia Gazette* had "Just Published" a pamphlet by "A Native of Virginia." The sixty-six-page pamphlet, entitled *Observations upon the Proposed Plan of Federal Government. With an Attempt to Answer Some of the Principal Objections that Have Been Made to It* (Evans 21264), was available at the *Chronicle* office for a shilling and a half. (No advertisements have been found in the Petersburg *Virginia Gazette* because only the issue of 13 March is extant for March and April.)

"A Native of Virginia" wrote his pamphlet "to counteract the misrepresentations" of Antifederalists "in the southern counties." He wanted the pamphlet to be published before the elections for state Convention delegates, "but the Printer found it impossible to deliver it in time." The author acknowledged that he had "not gone fully into the objections which have been raised to the government: His design was to obviate only the most popular, and in a manner as popular as he was able."

The identity of "A Native of Virginia" has not been determined. James Madison's copy of the pamphlet, now in the Rare Book Room at the Library of Congress, has a faint pencilled notation (perhaps by Madison) that could be read as "Mr. Fisher" or "Mr. Tyler" (Evans, *American Bibliography*, VII, 238). Daniel Fisher, a planter-lawyer, was treasurer and commonwealth's attorney for Greenville, a southern county. He was also a member of the House of Delegates and the state Convention, where he voted to ratify the Constitution. Another copy of the pamphlet, located in the St. George Tucker pamphlets in the Virginia Historical Society, is

annotated: "By Burwell Starke." Starke and Tucker attended the College of William and Mary in the early 1770s. Starke, a planter-lawyer from the southern county of Dinwiddie, never sat in the legislature or held an important county office. His politics are unknown. A last possibility is Edward Carrington, who toured three southern counties early in 1788 to determine the extent of their Antifederalism (note 30, below).

The pamphlet is divided into several parts. The first part (pages 3-10) examines the reasons for calling the Constitutional Convention, praises its work and members, traces the history of the bill of rights in England, and explains why a bill of rights was unnecessary in America. The main portion (pages 10-62) prints almost every clause of the Constitution (in italic type) and after each clause or group of clauses answers the objections raised to them. (For the omitted clauses, see notes 8 and 28, below.) Sometimes, "A Native of Virginia" replies specifically to criticisms raised by George Mason, Edmund Randolph, Elbridge Gerry, and the "Dissent of the Minority of the Pennsylvania Convention" (RCS:Va., 40-46, 260-75; and CC:227-A, 353). In the third part (pages 62-64), entitled "NOTE," "A Native of Virginia" explains why he has not answered the objections made by Richard Henry Lee (RCS:Va., 59-67). The last two pages of the pamphlet, which are unnumbered, contain the author's reasons for writing the pamphlet and an errata. (The errata are incorporated into the text of the pamphlet printed here.)

It was discovered soon after the peace, that the Confederation, in its present form, was wholly inadequate to the end of its creation; that of making America one State, for great national purposes. As soon as peace took place, confusion in every department of Congress, ruin of public and private credit, decay of trade, and loss of importance abroad, were the immediate consequences of the radical defects in the Confederation. During the war, the fear of a powerful enemy answered all the purposes of the most energetic government. But as soon as that fear was removed, the thirteen United States began to draw different ways. Some refused to ratify the treaty of peace; others neglected to pay their respective quotas to the public Treasury; and others absolutely rejected the most salutary propositions of Congress; propositions to which the greater number of States readily assented. In vain have Congress called upon the different States to pay up their quotas in order to support the falling credit of America: In vain have they pointed out to them the necessity of establishing their public faith as a nation, by complying with their treaties: In vain have they recommended to them to forego their own immediate interests, and consider the interests of the Union. Congress might advise, or recommend measures; might approve the conduct of some States, and condemn that of others; might preach up public faith, honour, and justice: But was this sufficient to preserve a union of thirteen States, or support a national government? It had no authority, its powers expired at the

peace, became a dead letter, for the fear of common danger was gone. Peace, which to other nations produces, and which under other circumstances would have produced to us, the greatest blessings, was pregnant with the greatest evil; disunion, the certain parent of internal quarrels, disorder, and blood-shed. In this situation of America, some of the best and wisest of her citizens, lamenting that the term of her glory was so short, and dreading the fatal consequences which would necessarily follow from disunion, proposed that a Convention of the States should be called for the purposes of amending the Confederation. The wisdom of the measure was instantly seen: It was approved by Congress, recommended to, and adopted by the States.

It is on all hands agreed, that an abler or more upright Assembly never met in America, than the late Convention held at Philadelphia. The original design of their meeting was to amend the present Articles of Confederation: But upon consulting together; upon accurately investigating the Confederation, and informing each other of the real situation of their respective States, they saw so many radical defects in one, and so many alarming appearances in the other, as induced them readily and unanimously to new-model the Federal Constitution: and after four months spent in painful inquiries, and diligent labour, produced the frame of government now offered to the consideration of the citizens of America. A form of government, which the President of the Convention, with the modesty peculiar to him, acknowledges to be in some respects defective; but which he likewise tells us, "was the result of a spirit of amity, and of that mutual deference and concession which the peculiarity of our political situation rendered indispensable."<sup>1</sup>

When we take a view of the respectable names who met upon this occasion, and composed this plan of government, we ought to approach it with deference and respect. Though not in such a manner as to deprive us of the power of discovering its faults; yet with such liberality as will lead us to consider it as the result of the deliberations of good and able men, actuated by just motives, and governed by pure principles. Men not swayed by selfish prospects, but urged to action by general philanthropy, and the desire of handing to posterity the best form of Federal Government, that America is capable of receiving, or perhaps that was ever offered to the consideration of mankind.

If we read the proposed plan under these ideas, and think we discover imperfections, and faults; ought we not rather to distrust our own perceptions, than the understandings of its makers? Because it is much more probable, that a single reader, even of great capacity, should be mistaken, than that so respectable a body as the Convention,

with minds equally enlightened, and more unbiased, should, after the freest and fullest investigation of this important subject, be wrong.

I confess I am not one of those who would adopt without consideration, or blindly pursue a plan produced by any body of men, however eminent their characters for wisdom and virtue. "Not to pin my faith upon the sleeve of any man," was one of my earliest lessons. However, I am persuaded that the work before us, requires no blind followers: but standing upon the basis of its intrinsic merit, possesses strength sufficient to withstand the shocks of its most powerful enemies. Often have I read this work; and sometimes discovered, as I thought, important defects: yet upon doubting my own judgment, and reading it again, have generally found the fault in myself, not in the Constitution. Yet I will not pretend to say that it is perfect. Did perfection ever come from the hands of man? If it were perfect, it would be illy suited to our imperfect capacities. Government in itself is not a positive good; but something introduced by societies to prevent positive evil. The best frame of government is that which is most likely to prevent the greatest sum of evil. Such I apprehend is the government now under consideration. Had the design of the Convention been to frame a Constitution for any individual State, they might perhaps have produced one, in the abstract, still nearer perfection. But far different was the purpose of their meeting! and I feel myself happy in concurring with that august body in thinking, that it is the best government which could be obtained for the thirteen States of America. Under this impression I shall attempt to explain those parts of it which are, or have been supposed to be difficult; and to answer some of the principal objections which have been made to it.

Before we enter into a discussion of the different articles which compose the Constitution, it may not be improper to take into consideration the question respecting a Bill of Rights; which many, from habit and prejudices, rather than from reason, and truth, have thought necessary; and upon the want of it have founded one of their principal objections.

Few people know the origin of the term; still fewer have considered, without prejudice, the necessity of the thing. What is a Bill of Rights? A declaration insisted on by a free people, and recognized by their rulers, that certain principles shall be the invariable rules of their administration; because the preservation of these principles are necessary for the preservation of liberty. If this definition be just; can there be a difference, whether these principles are established in a separate declaration, or are interwoven and made a part of the Constitution itself? Is an infringement of a Bill of Rights by the Governing

powers, of more serious consequence, than an infringement of the frame of government? The question carries the answer along with it. That there is no distinction between them is a truth, an attempt to prove which would be an offence against common sense.

Of all the European governments a Bill of Rights is known, I believe, to that of England alone. The cause of this is obvious. The liberty of that country has been procured and established by gradual encroachments upon the regal powers seized by, if not yielded to, the first Prince of the Norman family. The first declaration of this sort found in the history of that government, is the Charter of Hen. the 1st, obtained in consequence of that Monarch's feeble title to the Throne.<sup>2</sup> The frequent infractions of that Charter by Henry himself, as well as by subsequent Monarchs, produced the famous Magna Charta of John [1215], which is generally considered as the foundation of English freedom. But in those ages of darkness, when scarcely a rule of descent was fixed, much less principles in politics established, Charters, or Declarations of Rights, were soon lost sight of, whenever interest induced, and circumstances offered opportunities to the English Princes, to infringe them.

These violations gave rise to the Charter of Hen. 3d,<sup>3</sup> which was of much more importance than any of the preceding; and the discontents and confusions which led to it, in the end gave birth to the House of Commons. From this period some ideas of liberty began to prevail in the nation, but which for a long course of years were obscured by turbulent Barons, long and destructive civil wars,<sup>4</sup> and the arbitrary government of an able line of Princes. The art of printing, the reformation, and the restoration of letters, at length enlightened the minds of men: Just ideas of liberty now prevailed, and the Commons saw, that if the powers exercised by the Tudors were to continue in their new Sovereigns, all hope of liberty was at an end. Their restless spirit frequently shewed itself during the reign of Elizabeth; but that prudent Princess had the address to allay their fears, and the vigour to repress their spirit. A new and foreign race of Princes now ascend the Throne.<sup>5</sup> The opportunity was not to be lost: Political positions were laid down in, and established by the House of Commons, which were considered by many as extraordinary, as they were true.

James, without the talents, affected to reign with as high an hand as the Tudors. Charles unfortunately for himself, had been educated in the prejudices of his father. His ill-advised and arbitrary measures, involved him in difficulties which produced the Petition of Right in 1628. In this was set forth the unalienable rights of English-men. New infractions produced new quarrels; which terminated in a total change



of government. At the restoration all was joy and festivity. The tide of royalty ran too high, to think of Bills of Rights, or privileges of English-men. The conduct of James the 2d, the last King of that ill-fated family, involved the nation in fresh discontents: The Prince of Orange is called to its assistance: The King quits the Kingdom: The Throne is declared vacant; and William ascended it upon terms stipulated in a Bill of Rights [1689]. It may be asked, why did the English consider a Bill of Rights necessary for the security of their liberty? The answer is, because they had no written Constitution, or form of government. For in truth the English Constitution is no more than an assemblage of certain powers in certain persons, sanctified by usage and defined by the authority of the Sovereignty; not by the people in any compact entered into between them and their rulers.

If at the revolution the English had fully marked out the government under which they chose in future to live, without contenting themselves with establishing certain principles, in a Bill of Rights, can there be a doubt, but that such frame of government would have supplied the place of, and rendered unnecessary, a Bill of Rights?

Former Princes had pretended to a divine right of governing: William acknowledged his to flow from the people; and previously to his ascending the Throne, entered into a compact with them, which recognized that just and salutary principle. Had the English at this time limited the regal power in definite terms, instead of satisfying themselves with a Bill of Rights, there would have been an end of prerogative; but they from habit were contented with a Bill of Rights, leaving the prerogative still inaccurately defined, to claim by implication, the exercise of all the powers not denied it by that declaration.

When the United Netherlands threw off their dependence on the Crown of Spain and passed their act of Union, they thought not of any Bill of Rights;<sup>6</sup> because they well knew that the States General could have no right nor pretext to pass the bounds prescribed by that celebrated act: So in the instance before us, Congress have no right, and can have no pretext to pass the bounds prescribed them by this Federal Constitution and the powers conceded to the Federal Government by the respective States, under this government, are as accurately defined, as they possibly could have been in a Declaration of Rights.

When Independence was declared by the Americans, they had no government to controul them: Were free to chuse the form most agreeable to themselves. Six of these States have no Bill of Rights; wisely judging, that such declarations tend to abridge, rather than preserve their liberties. They considered their Constitutions as the evidence of

the social compact between the governors and the governed, and the only proof of the rights yielded to the former. In all disputes respecting the exercise of power, the Constitution or frame of government decides. If the right is given up by the Constitution, the governors exercise it; if not, the people retain it. Each of the remaining seven States has a Declaration of Rights, adopted rather from habit arising from the use in the English government, than from its being necessary to the preservation of their liberties.<sup>7</sup>

#### PLAN OF THE FEDERAL CONSTITUTION.

*WE, the People of the United States, in order to form a more perfect Union, establish Justice, insure domestic Tranquillity, provide for the Common Defence, promote the General Welfare, and secure the Blessings of Liberty to Ourselves and our Posterity, do Ordain and Establish this CONSTITUTION for the UNITED STATES OF AMERICA.*

The introduction, like a preamble to a law, is the key of the Constitution. Whenever federal power is exercised, contrary to the spirit breathed by this introduction, it will be unconstitutionally exercised, and ought to be resisted by the people.

#### ARTICLE I.

Section 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.*

It is necessary to observe that, Congress consists only of a Senate, and House of Representatives. The President makes no part of it; for his negative only amounts to a reconsideration of the public measures; as notwithstanding his disapprobation, a bill becomes a law, if two-thirds of each House agree to it.

Sect. 2. *The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature.*

It will be asked by some,—Why should the Representatives to Congress be elected for two years, when in Virginia and the other States, the State Delegates are annually chosen? In answer to this question a variety of reasons occur; such as that they will have a great distance to go: That the purposes of their Legislation being purely federal, it will take them some time to become acquainted with the situation and interests of the respective States, as well as the relative situation and interest of the whole Union: That it would be difficult to get men of abilities to serve in an office, the re-election to which would be so frequent. If the election had been once in three years, it would perhaps

have been an improvement. The unstable councils, the feeble laws, the relaxation of government which afflict this, and almost every State in the Union, may justly be attributed to the frequent changes which take place among the rulers in all the American governments.<sup>8</sup>

*Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of Representatives shall not exceed one for every thirty thousand, but each State shall have at least one Representative: And until such enumeration shall be made, the State of New Hampshire shall be entitled to choose three; Massachusetts, eight; Rhode-Island and Providence Plantations, one; Connecticut, five; New-York, six; New-Jersey, four; Pennsylvania, eight; Delaware, one; Maryland, six; Virginia, ten; North-Carolina, five; South-Carolina, five; and Georgia, three.*

Every free person counts one, every five slaves count three. By this regulation our consequence in the Union is increased, by an increase of numbers in the Congress. But some objectors argue that this arrangement is unjust; and that it bears hard upon the southern States, who have been accustomed to consider their slaves merely as property; as a subject for, not as agents to taxation; and therefore by adding three fifths of our slaves to the free persons, our numbers are increased; and consequently by how much is that increase, by so much is the increase of our federal burthen. It is true, that slaves are property,—but are they not persons too? Does not their labour produce wealth? And is it not by the produce of labour, that all taxes must be paid? The Convention justly considered them in the light of persons, rather than property: But at the same time conceiving their natural forces inferior to those of the whites; knowing that they require freemen to overlook them, and that they enfeeble the State which possesses them, they equitably considered five slaves only of equal consequence with three free persons. What rule of federal taxation so equal, and at the same time so little unfavourable to the southern States, could the Convention have established, as that of numbers so arranged? Suppose the value of the lands in the respective States had been adopted as the measure: Let us see what then would have been the consequence. The northern States are comparatively small to the southern, and are very populous; whilst to the southward, the inhabitants are scattered over a great extent of territory. Any given number of

men in the latter States possess much greater quantities of land, than the like number in the former. It is true the lands to the northward sell for a greater price than those to the southward, but the difference in price is by no means adequate to the difference in quantity; consequently an equal number of men to the southward would have to pay a much greater federal tax than the like number to the northward.

By the 8th article of Confederation, the value of lands is made the measure of the federal quotas. Virginia in consequence is rated something above Massachusetts, whose number of white inhabitants is nearly double.

After all, this point is perhaps of no great consequence. The Congress probably will rarely, if ever, meddle with direct taxation, as the impost duties will in all likelihood answer all the purposes of government, or at any rate the post-office, which is daily increasing, and a tax upon instruments of writing, will supply any deficiency.

Indians are mentioned in this clause because there are nations of Indians within the limits of several of the States.

*When vacancies happen in the Representation from any State, the Executive authority thereof shall issue writs of election to fill such vacancies.*

The Convention attentive to the preservation of the consequence of each State, have entrusted to the Executives thereof, the power of issuing writs of elections when vacancies happen. An additional security to the independance of the individual States.

*The House of Representatives shall choose their Speaker and other officers; and shall have the sole power of impeachment.*

The Representatives in Congress possess the sole power of impeachment: But here it may be observed, that they cannot impeach one of their own body; but have the power of expulsion, when two-thirds of their body shall agree.

Sect. 3. *The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six years; and each Senator shall have one vote.*

The inequality of the representation of the Senate, has been made a great ground of objection.

We should never forget that this is a government proposed for thirteen independent States, unequal in population, and extent of territory, and differing in a variety of other circumstances. It will not be denied that the small, have an equal right to preserve their independence with the large States; and this was their only means of preserving it. The justice of this is acknowledged by most of the objectors and amenders of the plan.

We should here also recollect, that under the Confederation which

at present exists, the small States have a vote in all respects equal to the large, even to Virginia; and it certainly was a great point gained by the large, to get their consequence increased in the House of Representatives in proportion to their numbers. In the United Provinces each of the seven States has but one vote in their Congress, and in that Confederation the disproportion between the States is much greater, than in ours; for the Province of Holland pays rather more than one half of the whole federal quota. Yet so great are the evils which would arise from a disunion, that this wealthy Province readily submits to so unequal a representation.

*Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be, into three classes. The seats of the Senators of the first class shall be vacated at the expiration of the second year; of the second class, at the expiration of the fourth year; and of the third class, at the expiration of the sixth year; so that one third may be chosen every second year: And if vacancies happen by resignation, or otherwise, during the recess of the Legislature of any State, the Executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.*

*No person shall be a Senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen.*

Notwithstanding the Senators are to be chosen by the Legislatures of the respective States, who surely are competent judges of those who are most capable of filling this important office: Notwithstanding one third of them are re-chosen every two years: Yet the enemies to the Constitution affect to call this an aristocratic body: And endeavour to excite visionary fears in the minds of men, that they will form a distinct order in the State, and become formidable to the liberty of America. I am not gifted with the spirit of prophecy, and therefore cannot say what will happen; but this I will boldly assert, that if power cannot be trusted in the hands of men so appointed, it can be trusted no where. The different States will be well acquainted with the characters of those whom they elect to the Senate; their time of duration when elected is too short to enable them to form dangerous intrigues, or bring about important revolutions. It is a well established principle in rhetorick, that it is not fair to argue against a thing, from the abuse of it. Would you say there should be no Physicians because there are unskilful administers of medicine: No Lawyers because some are dishonest: No Courts because Judges are sometimes ignorant; nor government because power may be abused? In short, it is impossible to guard entirely against the abuse of power. Annual elections will not do it. The Del-

legates of Virginia are annually elected, yet it is a fact, that there has not been an Assembly since the government was framed, wherein the Bill of Rights and the Constitution have not been infringed. The instances have been of no great importance and therefore notwithstanding the danger of the principle, they have been overlooked.

*The Vice-President of the United States shall be President of the Senate, but shall have no vote, unless they be equally divided.*

*The Senate shall choose their other officers, and also a President pro tempore, in the absence of the Vice-President, or when he shall exercise the office of President of the United States.*

The Vice-President has been introduced from the State Government of New York. This useful, though surely inoffensive officer, has been made by some objectors the bugbear of the Constitution. It is a strong proof of want of argument in the enemies to it, when they hold up this officer as dangerous. He is elected by the same persons as the President, and in the same manner. He presides in the Senate, but has no vote except when they are divided. This is the only power incident to his office whilst he continues Vice-President; and he is obviously introduced into the government to prevent the ill-consequences which might otherwise happen from the death or removal of the President. This is the purpose for which a similar officer has been introduced into the Constitution of New-York.<sup>9</sup>

*The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the Chief Justice shall preside: And no person shall be convicted without the concurrence of two-thirds of the members present.*

*Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, 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.*

I conceive that the Senators are not impeachable, and therefore Governor Randolph's objection falls to the ground.<sup>10</sup> I am surprized that a man of that gentleman's abilities should have fallen into this mistake. The Senators having a power over their own members, have the right of expulsion. Why then should they be impeachable? For upon impeachments, the punishment is only removal from, and incapacity to hold offices. Expulsion amounts to the same thing. Besides, the Senators are elected by the people, though mediately, as well as the House of Representatives, and therefore have not the same degree of responsibility annexed to their characters, as the officers of government; and for this obvious reason,—the former are appointed by

the people themselves to stand in their places, and they are the best judges of those who are most fit to serve them; but the latter are appointed by the servants of the people. It is a generally received maxim among writers on government, that the Judiciary and Legislative departments should be kept distinct. The position is true to a certain extent; but this like most other general rules, is liable to exceptions. In the English government, which is certainly the freest in Europe, the House of Lords not only try impeachments, but is the highest civil court in the kingdom. In that Constitution the House of Commons are the impeachers, the House of Lords the triers: But no members either of the House of Commons or House of Lords, was ever impeached as such: But whenever members of either House have been impeached, it was as great officers of State. Under the federal government this is impossible, because the members of neither House can hold any office of State.

If this reasoning be not conclusive, the fourth section of the second article puts it out of doubt, viz. "The President, Vice President, and all civil officers of the United States, shall be removed from office on impeachment, &c." The Senators are representatives of the people; and by no construction can be considered as civil officers of the State. If this be the case, in whose hands can this power be lodged with greater propriety, or with greater safety, than in those of the Senate? Or how can a better court be appointed? To impeach either the members of Senate or House of Representatives, would be to impeach the representatives of the people, that is the people themselves, which is an absurdity.

Sect. 4. *The times, places, and manner of holding elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time, by law, make or alter such regulations, except as to the places of chusing Senators.*

*The Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.*

Sect. 5. *Each House shall be the judge of the elections, returns, and qualifications, of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner, and under such penalties as each House may provide.*

*Each House may determine the rules of its proceedings, punish its members for disorderly behaviour, and with the concurrence of two-thirds, expel a member.*

*Each House shall keep a journal of its proceedings, and from time to time*

*publish the same, excepting such parts as may in their judgement require secrecy; and the yeas and nays of the members of either House on any question, shall, at the desire of one-fifth of those present, be entered on the journal.*

*Neither House, during the cession of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.*

Experience and a change of circumstances may render it necessary that the Congress should have the power of regulating the elections: But as the Senate is elected by the State Legislatures, the place of such election must be the place where they meet. Besides which, this power was necessary lest some of the States from obstinacy, or selfish views, should alter the time and place of holding the elections in such a manner, as might impede the operation of the federal government.

*Sect. 6. The Senators and Representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall in all cases, except treason, felony and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same; and for any speech or debate in either House, they shall not be questioned in any other place.*

*No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States, shall be a member of either House during his continuance in office.*

Say the objectors,—Why are not the salaries of the members of Congress ascertained by the Constitution? I will answer them by another question,—Why are not the salaries of every officer of the United States ascertained by it? Or rather, why should the Convention have descended into such minutia? Can it be supposed, for a moment, that in the present situation of America, when there are still left many men of talents and virtue, from amongst whom the Congress will doubtless be chosen, that they will pass a law to give themselves immoderate sallaries? But even should they, what would be the mighty evil to this extensive continent, from eighty or ninety persons having salaries larger than perhaps their services might merit?

It is proper that Congress should have the regulation of this matter for another reason. It is a fact well known in the commercial world, that, from one certain cause, the quantity of specie is insensibly increasing: This of consequence lessens its value: Therefore a salary



which now would be sufficient, forty years hence, would be wholly inadequate.

In the latter part of this section there is an admirable check upon the members of both Houses; as nothing can tend in a greater degree, to preserve their independence of conduct, and prevent intriguing, than that no member shall be eligible to any office which has been created, or whose emoluments have been increased, since the time of his election, and during the time for which he has been elected.

Sect. 7. *All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as on other bills.*

In this the Constitution is an improvement upon that of England: There all money bills must not only originate but must be perfected in the House of Commons: Here though the Senate cannot originate such bills, yet they have the power of amending them, and by that means have an opportunity of communicating their ideas to the House of Representatives upon the important subject of taxation.

*Every bill which shall have passed the House of Representatives and the Senate, shall, before it become a law, be presented to the President of the United States; if he approve he shall sign it, but if not, he shall return it with his objections, to that House in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration two-thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and if approved by two-thirds of that House, it shall become a law. But in all such cases the votes of both Houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each House respectively. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress by their adjournment prevent its return, in which case it shall not be a law.*

This power in the President is derived from the State government of Massachusetts and New-York, though in the latter the Chancellor and Chief Judges are added to the Governor.<sup>11</sup> This power goes only to a reconsideration of the public measures; and the President's disapprobation, or negative, is nugatory, when two-thirds of each House concur in any measure after it has undergone his inspection. The Convention wisely judged that the President would in all probability be a man of great experience, and abilities, and as far as his powers extend, ought to be considered as representing the Union; and consequently would be well acquainted with the interests of the whole.

Great utility is therefore likely to arise to Congress from his knowledge, and his reasoning upon their acts of Legislation. Farther, the experience of all ages proves that all popular assemblies are frequently governed by prejudices, passions, and partial views of the subject; nay sometimes by indecent heats and animosities. The ten days therefore given to the President for his opinion of their measures, is wisely interposed to prevent the mischiefs which might ensue from those common faults of such assemblies.

*Every order, resolution or vote, to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States; and before the same shall take effect, shall be approved by him, or, being disapproved by him, shall be repassed by two-thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.*

The reasoning upon the last clause applies also to this.

Sect. 8. *The Congress shall have power*

*To lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defence and general welfare of the United States; but all duties, imposts, and excises, shall be uniform throughout the United States;*

It is here to be observed, that all taxes, imposts, &c. are to be applied only for the common defence and general welfare, of the United States. By no possibility will the words admit of any other construction. Yet several popular<sup>(a)</sup> declaimers have attempted to sound the alarm by their illiberal and ill-founded suggestions of speculation, bribery, and corruption, and of the probability of the public Treasury being converted to the use of the President and Congress. But how will this be possible? They will have all fixed salaries, and no perquisites. The public accounts of receipts and expenditures will be regularly kept and regularly published, for the public inspection: Besides which, the public offices will always be open for the search and inquiries of every individual. I doubt if human wisdom could devise any better mode of securing a just application of the public money.

As scarcely any article of the proposed plan has escaped censure, there are objections made to the grant of the imposts to Congress. But when we consider that the purposes for which the imposts are to be applied are merely national, and falls directly within the design of the Union, that of making all America one State for great political purposes, the objection falls; for in this view America composes but one great republic, all the citizens of which stand precisely upon the same ground, and pay only in proportion to their consumption of foreign articles. To this we may add, that those States which export the chief of the produce of their labour, and in consequence of that

circumstance, import more than those which manufacture, receive a compensation for the increased import, by the exported produce being free from duties. And besides, we may fairly conclude, that the consumption of foreign articles throughout America, is nearly in proportion to the enumeration, which is the measure of the respective quotas.

*To borrow money on the credit of the United States;*

This power is lodged with the present Congress.

*To regulate commerce with foreign nations, and among the several States, and with the Indian tribes;*

The power of regulating commerce gives great alarm to the enemies of the Constitution. In this, as in most other instances, they forget that this is a government for thirteen States; and think only of the immediate interests of Virginia; as if she had a right to dictate to the other twelve, and as if her interests alone were to be consulted. Be not deceived my countrymen. However important we may be in the scale of Union, there are other States which are equally so. The consequence of this power, say they, will be, that the eastern and northern States will combine together, and not only oblige the southern to export their produce in their bottoms, by prohibiting foreign bottoms; but will also lay such duties upon foreign manufactures as will amount to a prohibition, in order to supply us themselves.

Upon accurately investigating this point, we shall find the reasoning to be as false, as the supposition is illiberal. It is true the eastern States can build and equip ships, upon better terms than the southern: Nay, I believe I may go farther, and say, that they can upon better terms than any nation in Europe. This arises from their having all the materials for ship-building within themselves, except canvas and cordage, whilst most of the maritime powers of Europe, depend upon foreign countries, not only for these articles, but also for timber and masts. A great extent of sea coast, a cold climate, a barren soil, and above all, the fisheries, furnish an infinite number of seamen, who from necessity are willing to navigate for very moderate wages. If this be the case, is there any reason to suppose that the eastern States will not carry our produce upon as reasonable terms as any of the European powers? I believe it is a fact, that before the war, they were the principal carriers for the British West-Indies; so low were the terms upon which their vessels could be chartered. And the same causes still exists, why they should take freight upon terms equally moderate. But this is not all. The eastern States are not ignorant that the southern possess even better materials for ship-building, than they do; and therefore will take care not to excite their jealousy, nor stimulate them to build ships and become their own carrier[s], by exacting unreasonable

freightage. But admitting that the eastern Delegates should be so dishonest as well as unwise, to combine against those of the south—I will venture to assert, that not a man in America, who is acquainted with the middle States, can suppose that they would join in such a combination. New-York is rather a country of farmers than of sailors: It possesses large tracts of fertile soil, but no fisheries, and before the war, for one ship built in that State, either for freightage or sale, there were thirty in New-England. All that she will aim at, therefore, will be ships of her own, sufficient to carry her own produce. Her interests, therefore will not induce her to enter into this formidable combination.

Jersey, from her local situation, and a variety of peculiar circumstances, has fewer ships and seamen than even any of the southern States. Her interests, therefore, will lead her to adhere to them.

The same reasoning applies to Pennsylvania that does to New-York; and still more emphatically; because this State is still more employed in husbandry. And as to the State of Delaware, it does not own six ships.

Let us then see how this question will stand in point of numbers. The four eastern States will have seventeen voices, which will be opposed by the nineteen voices of the middle States and the twenty-nine of the southern.

I will now endeavour to answer the other objection.—The fear of a northern combination to furnish the southern States with manufactures. This I conceive, has arisen either from ignorance of the subject, or an absolute enmity to all confederation. The only manufactures which the northern States possess and with which they can furnish others, are shoes, cotton cards, nails, hats, carriages, and perhaps paper and refined sugars may be added; and should the whale-fishery be ever revived, train oil and spermacæti candels. The two first articles may be in a great measure confined to Massachusetts. Their shoes are as good and as cheap as those imported from Great-Britain, at least as the sale shoes. And as to the second article, the exportation of them from thence is prohibited by act of Parliament. Both New-York and Pennsylvania manufacture leather in all its branches, and hats; but not more than sufficient for their own consumption. Connecticut has no manufactures to export; nor has New-York, unless perhaps some refined sugar. Jersey has only domestic manufactures. Pennsylvania manufactures nails, refined sugar, cotton cards, carriages, and, of late, paper for exportation. The Delaware State has only domestic manufactures.

If Massachusetts can furnish us with shoes, cards, train oil, and spermacæti candles; Pennsylvania with nails, white sugar, carriages, and

paper, as cheap as we can procure them from beyond the Atlantic, why should not such European articles be prohibited? There is no probability that either the northern or southern States, will in many years become extensive manufacturers. The price of labour and cheapness of land, will prevent it; and the daily migrations from all the States to the western parts of America, will keep up the one, and keep down the other. I have been informed, and I believe rightly informed, that the amount of the imports from Europe, is as great or greater in the eastern or middle States, as in the southern, in proportion to their numbers.<sup>(6)</sup> This, to many, may appear doubtful; but I believe it, because I have good reason to think, that the domestic manufactures of the southern States, particularly of Virginia, are of greater value than the domestic manufactures of the northern and middle States, in the same proportion. This has arisen from the cultivation of cotton, which will not come to perfection to the northward; and that article is manufactured with much less labour than either flax or hemp.

If this account be just, what have the southern States to fear? But admitting some of the eastern and middle States should enter into this illiberal, unjust, and impolitic combination: Let us see how the numbers would stand. New-Hampshire, Massachusetts, New-York, and Pennsylvania, the only manufacturing States, may combine: Their numbers will amount to twenty-five in one House, to be opposed by forty; and in the other the numbers will be eight, to be opposed by sixteen.

After all, suppose these objections are founded in fact: Had we not better submit to the slight inconveniencies which might arise from this combination, than the serious evils that must necessarily follow from disunion?

*To establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States;*

*To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures;*

*To provide for the punishment of counterfeiting the securities and current coin of the United States;*

*To establish post-offices and post roads;*

*To promote the progress of science and useful arts, by securing for limited times, to authors and inventors, the exclusive right to their respective writings and discoveries;*

*To constitute tribunals inferior to the Supreme Court;*

*To define and punish piracies and felonies committed on the high seas, and offences against the law of nations;*

*To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;*

Most of these powers, the present Congress possess, and none of them have been objected to, except what relates to the Courts, which will be taken notice of hereafter.

*To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years;*

By this regulation every House of Representatives will have a share in the appropriations; and no mischief can ensue from appropriations of two years, since the proceedings of each House of Congress are to be published from time to time, as well as regular statements and accounts of the receipts and expenditures of all public money.

*To provide and maintain a navy;*

*To make rules for the government and regulation of the land and naval forces;*

The present Congress possess the powers given by these clauses.

*To provide for calling forth the militia to execute the laws of the union, suppress insurrections and repel invasions;*

*To provide for organizing, arming and disciplining the militia, and for governing such part of them as may be employed in the service of the United States; reserving to the States respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress.*

By these clauses, the appointment of the militia officers, and training the militia, are reserved to the respective States; except that Congress have a right to direct in what manner they are to be disciplined, and the time when they are to be ordered out.

These clauses have been extremely misunderstood, or purposely misconstrued, by the enemies to the Constitution. Some have said, "the absolute unqualified command that Congress have over the militia may be made instrumental to the destruction of all liberty, both public and private, whether of a personal, civil, or religious nature."<sup>(c)</sup>

Is this the result of reason, or is it the dictate of resentment? How can the command of Congress over the militia be either absolute or unqualified, when its officers are appointed by the States, and consequently can by no possibility become its creatures?

They will generally be men of property and probity: And can any one for a moment suppose that such men will ever be so lost to a sense of liberty, the rights of their country, and their own dignity, as to become the instruments of arbitrary measures? Whenever that shall be the case, we may in vain contend for forms of government; the spirit of liberty will have taken its flight from America, and nothing but an arbitrary government will be fit for such a people, however accurately defined the powers of her Constitution may be. But so long

as there shall be a militia so officered, or the majority of the people landholders, America will have little to fear for liberty. Congress have the power of organizing the militia; and can it be put into better hands? They can have no interest in destroying the personal liberty of any man, or ruining his fortune in the mode of organization: They can make no law upon this, or any other subject, which will not affect themselves, their children, or their connexions.

Can any one seriously suppose, that Congress will ever think of drawing the militia of one State out, in order to destroy the liberties of another? Of Virginia, for instance, to destroy the liberties of Pennsylvania? Or should they be so wicked, that an American militia, officered by the States, would obey so odious a mandate?<sup>(d)</sup> The supposition is monstrous.

*To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular States, and the acceptance of Congress, become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings.*

So great is the jealousy of some of our citizens, that even this clause has excited their fears. This little spot is to be the centre to which is to be attracted all the wealth and power of this extensive continent: The focus which will absorb the last remains of American liberty. Such are the visionary phantoms of the antifederalists.

The Congress is to govern, as they shall see fit, a district not more than ten miles square. And what possible mischief can arise to the United States from hence? This district must either be purchased by Congress, or yielded to them by the inhabitants of that particular spot, which they may conceive most convenient for them to assemble at, and for which the consent of the State is necessary. If the first, there will be few or no inhabitants; they will therefore induce people to settle it, by establishing a mild government. If the second, the inhabitants of any particular district certainly have a right to submit to whatever form of government they may think agreeable, provided the State within which the district lies, consents; without giving offence to Virginia, or any other of the States. We are told that the wise Franklin has recommended to the Philadelphians to offer their city and its environs as the seat of Congress.<sup>12</sup> Can it be supposed that he would recommend this measure to his favorite city were he not well assured that the government of Congress will be a good one? I have no doubt but this district will flourish; that it will increase in population and wealth: Because I have no doubt but most people would think it a

happiness to live under the government of such men as will compose the Congress; or under such a government as such men will frame for that district.

*And—To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and other powers vested by this Constitution in the government of the United States, or in any departmen[t] or officer thereof.*

By this clause, Congress have no farther legislative authority than shall be deemed necessary to carry into execution the powers vested by this Constitution. This regulation is necessary; as without it the different States might counteract all the laws of Congress, and render the Federal Government nugatory.

Sect. 9. *The migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.*

This clause is a proof of deference in the members of the Convention, to each other, and of concession of the northern to the southern States. There is no doubt but far the greater part of that Convention hold domestic slavery in abhorrence. But the members from South-Carolina and Georgia, thinking slaves absolutely necessary for the cultivation and melioration of their States, insisted upon this clause. But it affects not the law of Virginia which prohibits the importation of slaves.<sup>13</sup>

*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.*

By this clause the Congress have the right of suspending the habeas corpus in the two cases of insurrection and rebellion—a power which follows from the necessity of the thing.

*No bill of attainder or ex post facto law shall be passed.*

It is extraordinary that Mr. Mason should have made a part of this clause a ground of objection. 'Till that gentleman denied it, I had supposed it an universally received opinion, that ex post facto laws were dangerous in their principle, and oppressive in their execution. And with respect to bills of attainder, a very slight acquaintance with the history of that country in which alone they are used, is sufficient to discover that they have been generally made the means of oppression.<sup>14</sup>

*No capitation, or other direct tax, shall be laid, unless in proportion to the census or enumeration herein before directed to be taken.*



This clause is a confirmation of the third clause of the second section of the first article.

*No tax or duty shall be laid on articles exported from any State. No preference shall be given by any regulation of commerce or revenue, to the ports of one State, over those of another: Nor shall vessels bound to, or from, one State, be obliged to enter, clear, or pay duties in another.*

All writers upon finance hold taxes upon exports to be impolitic. Yet there are doubtless some articles which will with propriety bear an export duty; such as tobacco and perhaps indigo. But then these articles are of the growth of only five of the States; and it would be a manifest injustice that the produce of some States should be taxed for the benefit of others. The latter part of the clause provides that all Naval Officers fees and port charges shall be the same throughout the United States; and that a vessel bound to one State from another, and calling at any intermediate State, shall not be obliged to enter, clear, or pay duty, in such State. This tends to facilitate the intercourse among the States, and may produce many commercial conveniencies.

*No money shall be drawn from the Treasury, but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money, shall be published from time to time.*

As all appropriations of money are to be made by law, and regular statements thereof published, no money can be applied but to the use of the United States.

*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 Congress, accept of any present, emolument, office, or title, of any kind whatever, from any King, Prince, or foreign State.*

The first part of this clause proves the Convention had no aristocratical views, nor any idea of establishing an order in the State, with rights independent of the people. The latter part of it is introduced to prevent the officers of the Federal Government being warped from their duty.

Sect. 10. *No State shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make any thing but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts; or grant any title of nobility.*

The States, in their individual capacities, should be restrained from the exercise of the powers enumerated in this clause, for a variety of reasons. If any State should have a right of making treaties, granting letters of marque, and the like, America might be perpetually involved in foreign wars. By exercising the right of coinage and of emitting bills

of credit, a State might, by the former, debase the currency of the United States, by mixing great quantities of alloy, and by that means defraud the Federal Treasury; and by the latter it might defraud not only its own citizens, but the citizens of other States. But this is not all. An exercise of these rights would materially interfere with the exercise of the like by the Congress; and therefore the particular, should give way to the general interest. The making any thing but gold and silver a tender in payment of debts, and the impairing the obligation of contracts, is so great a political injustice, that the Constitution here requires of the States, that they will forever relinquish the exercise of a power so odious. This part of the clause would probably never have been introduced, had not some of the States afforded too frequent instances of unjust laws upon these subjects.

*No State shall, without the consent of the Congress, lay any imposts or duties on imports and exports, except what may be absolutely necessary for executing its inspection laws; and the nett produce of all duties and imposts, laid by any State on imports or exports, shall be for the use of the Treasury of the United States; and all such laws shall be subject to the revision and controul of the Congress. No State shall, without the consent of Congress, lay any duty of tonnage, keep troops, or ships of war in time of peace, enter into any agreement or compact with another State, or with a foreign power, or engage in war; unless actually invaded, or in such imminent danger, as will not admit of delay.*

If the individual States might lay duties upon the imports, it would be counteracting the same right in Congress, and ruin the great fund out of which the present federal debts are to be paid, as well as the future federal expences defrayed. And with regard to exports, it was highly reasonable that one State should be prohibited from laying an export duty on the articles of a sister State, which may be shipped through that State.

The exigencies of the Union may however require direct taxes. By this clause, a door is open to the States, to raise their respective quotas, in lieu of direct taxes; by laying a duty upon exports; or even duties upon imports. But as the amount of these duties are to be paid into the public Treasury, no inconvenience can, on the one hand, arise to the general welfare from them; and, on the other, the power of revision in the Congress will be the means of securing a due attention to the interests of all the States, in the mode of laying the duty, as well as in the application of it. The latter part of the clause is no more than a confirmation of principles antecedently established, and of powers before vested in the Congress; but such as are absolutely necessary for

the good order, dignity, and harmony of the whole; and are such as the States have already yielded to the present Congress.<sup>(e)</sup>

#### ARTICLE II.

Sect. 1. *The Executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and together with the Vice-President, chosen for the same term, be elected as follows:*

*Each State shall appoint, in such manner as the Legislature thereof may direct, a number of Electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress: But no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an Elector.*

*The Electors shall meet in their respective States, and vote, by ballot, for two persons, of whom one at least shall not be an inhabitant of the same State with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit, sealed to the seat of the government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of Electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the House of Representatives shall immediately chuse, by ballot, one of them for President; and if no person have a majority, then from the five highest on the list the said House shall in like manner chuse the President. But in chusing the President, the votes shall be taken by States, the Representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two thirds of the States, and a majority of all the States shall be necessary to a choice. In every case, after the choice of the President, the person having the greatest number of votes of the Electors, shall be the Vice-President. But if there should remain two or more who have equal votes, the Senate shall chuse from them, by ballot, the Vice-President.*

It has been urged by many, that the President should be continued in office, only a given number of years, and then be rendered ineligible. To this it may be answered, were that to be the case, a good officer might be displaced, and a bad one succeed. Knowing that he could not be continued, he might be more attentive to enrich himself, should opportunities offer, than to the execution of his office. But as his continuance in office, will depend upon his discharging the duties of it with ability, and integrity, his eligibility will most probably be the best security for his conduct. The longer a man of abilities and virtue, fills an office, the better, and easier will the duties of it be discharged:

The whole system of administration becomes well arranged; and every department in the government well filled. An election to this office once in every four years, is a sufficient curb upon the President: The Electors hold the reins. If he has misconducted himself, he will not be re-elected; if [he] has governed with prudence, and ability, he ought to be continued.

The Vice-President will probably be a candidate to succeed the President. The former will therefore be a perpetual centinel over the latter; will be a stimulus to keep him up to his duty, and afford an additional security for his upright conduct.

Notwithstanding these reasons, and the powerful checks opposed to the powers of the President, the enemies of the Constitution has sounded the alarm with great violence, upon the ground of his eligibility for life. Some tell us that it will be the means of his becoming the hereditary sovereign of the United States; whilst others hold up to our view the dangers of an elective monarchy.

It is pretty certain that the President can never become the sovereign of America, but with the voluntary consent of the people: He is re-elected by them; not by any body of men over whom he may have gained an undue influence. No citizen of America has a fortune sufficiently large, to enable him to raise and support a single regiment. The President's salary will be greatly inadequate either to the purpose of gaining adherents, or of supporting a military force: He will possess no princely revenues, and his personal influence will be confined to his native State. Besides, the Constitution has provided, that no person shall be eligible to the office, who is not thirty-five years old; and in the course of nature very few fathers leave a son who has arrived to that age. The powers of the President are not kingly, any more than the ensigns of his office. He has no guards, no regalia, none of those royal trappings which would set him apart from the rest of his fellow citizens. Suppose the first President should be continued for life: What expectations can any man in the Union have to succeed him, except such as are grounded upon the popularity of his character?

None of its citizens possess distinct principalities, from whence money may be drawn to purchase, or armies raised to intimidate the votes. Fortunately for America, she has no neighbouring Princess to interfere in her elections, or her councils: No Empress of Russia to place the Crown upon the head of her favorite Powniotowsky.<sup>(15)</sup>

It has also been objected, that a Council of State ought to have been assigned the President.<sup>16</sup> The want of it, is, in my apprehension, a perfection rather than a blemish. What purpose would such a Council answer, but that of diminishing, or annihilating the responsibility an-

nexed to the character of the President. From the superiority of his talents, or the superior dignity of his place, he would probably acquire an undue influence over, and might induce a majority of them to advise measures injurious to the welfare of the States, at the same time that he would have the means of sheltering himself from impeachment, under that majority. I will here once for all observe, that descended as we are from the English, conversant as we are in the political history of that country, it is impossible not to derive both political opinions, and prejudices, from that source. The objectors probably considered, that as in the English government, the first Magistrate has a Council of State; there should be one also in the American. But they should at the same time have recollected, that the King of England is not personally responsible for his conduct; but that her Constitution looks up to his Ministers, that is, to his Council, to answer for the measures of the Sovereign. But in the American Constitution, the first Magistrate is the efficient Minister of the people, and as such, ought to be alone responsible for his conduct. Let him act pursuant to the dictates of his own judgment; let him advise with his friends; let him consult those of whom he has the highest opinion for wisdom; but let not his responsibility be diminished by giving him a Council.

*The Congress may determine the time of chusing the Electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.*

*No person, except a natural born citizen, or a citizen of the United States, at the time of the adoption of this Constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.*

*In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice-President; and the Congress may by law provide for the case of removal, death, resignation, or inability, both of the President and Vice-President, declaring what officer shall then act as President, and such officer shall act accordingly, until the disability be removed, or a President shall be elected.*

*The President shall, at stated times, receive for his services, a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.*

*Before he enters on the execution of his office, he shall take the following oath or affirmation: "I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will, to the best of*

*my ability, preserve, protect, and defend, the Constitution of the United States."*

The first of these clauses is intended to prevent intrigue and tumult in chusing the Electors: And the reasons already offered, why Congress should have the right of altering "the times and manner of holding the elections for Senators," apply why they should have the power of determining the time of chusing Electors. The fifth is an additional check upon the President.

Sect. 2. *The President shall be Commander in Chief of the army and navy of the United States, and of the militia of the several States, when called into the actual service of the United States: he may require the opinion, in writing, of the principal officer in each of the Executive departments, upon any subject relating to the duties of their respective offices, and he shall have power to grant reprieves and pardons for offences against the United States, except in cases of impeachment.*

The powers vested in the President by this and the subsequent clause, belong, from the nature of them, to the Executive branch of government; and could be placed in no other hands with propriety.

So long as laws can not provide for every case that may happen: So long as punishments shall continue disproportionate to crimes, the power of pardoning should some where exist. With whom could this power, so precious to humanity, be better entrusted, than with the President? An officer who, from his age and experience, will seldom be misled in the exercise of it; and who less liable to the influence of prejudice and passion than a popular assembly, will most probably be guided by discretion in the use of it.

Why Governor Randolph should wish to take from him this power, at least in cases of treason; and why he should have made a distinction between the power of pardoning before, and after conviction; I am at a loss to conceive; and shall therefore attempt no further answer to an objection which appears to me, unsupported by reason.<sup>(6) 17</sup>

*He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur; and he shall nominate, and by and with the advice and consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law. But the Congress may, by law, vest the appointment of such inferior officers, as they think proper, in the President alone, in the Courts of law, or in the heads of departments.*

The Constitution has here lessened the authority of the President, by making the assent of two-thirds of the Senate necessary in the

important cases of making treaties, in appointing Ambassadors, the Judges of the Supreme Court, and the great officers of State.

Writers upon government have established it as a maxim, that the Executive and Legislative authority should be kept separate. But the position should be taken with considerable latitude. The Executive authority here given to a branch of the Legislature, is no novelty, in free governments. In England, the Executive, or Cabinet Council, is taken indifferently from either House of Parliament. In the States of New York and Jersey, the Senate not only act as an Executive Council, but also form a part of the Court of Appeals.<sup>(b) 18</sup>

The following reasons suggest themselves in support of the propriety of vesting the President and Senate with the power of making treaties.

The President is the Representative of the Union: The Senate the Representatives of the respective States. The objects of treaties must always be either of great national import, or such as concern the States in their individual capacities; but never can concern the individual members of the State. Secrecy and dispatch are necessary in making them: For without secrecy and dispatch, they are seldom made to purpose. Hence arises the impropriety of consulting either the Representatives of the people, or the different States. If the former were consulted, the interests of the small States might be sacrificed; if the latter, almost insurmountable obstacles would be thrown in the way of every negotiation.

In the Dutch Republic the States-General are obliged to consult their constituents, upon this, as upon every important occasion, however urgent may be the necessity. This vice in their Federal Constitution has more than once brought them to the brink of ruin.

*The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session.*

This inoffensive clause is made a ground of objection by Governor Randolph!<sup>19</sup> I wish he had informed us wherefore.

Sect. 3. *He shall from time to time give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient: He may on extraordinary occasions, convene both Houses, or either of them, and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper: He shall receive Ambassadors and other public Ministers: He shall take care that the laws be faithfully executed; and shall commission all the officers of the United States.*

The powers given by this section are such as in all governments, have always been, and must necessarily be, vested in the first magistrate.

Sect. 4. *The President, Vice-President, and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.*

The persons subject to impeachment, are the President, Vice-President, and all civil officers of the United States, and no others.

### ARTICLE III.

Sect. 1. *The judicial power of the United States shall be vested in one Supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their offices during good behaviour, and shall, at stated times, receive for their services, a compensation, which shall not be diminished during their continuance in office.*

Sect. 2. *The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; 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 or subjects.*

*In all cases affecting Ambassadors, other public Ministers, and Consuls, and those in which a State shall be a party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, 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.*

*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.*

No part of the Constitution seems to have been so little understood, or so purposely misconstrued, as this article. Its enemies have mustered all their forces against the Federal Court; and have loudly sounded the trumpet, for the benevolent purpose of alarming the good people of Virginia, with the fears of *visionary* danger and imaginary oppression. They have told them the Federal Court, like Aron's rod,<sup>20</sup> would swallow up all the judiciary authority of the respective States. That a citizen of Virginia may be forced to Philadelphia for a debt of 5 l. although it was contracted with a fellow citizen: And, above all, that the trial by jury is not preserved. In a word, it is the Federal Court that is to be made the great instrument of tyranny.

These indeed would be serious objections were they well founded.



It is on all hands admitted, that a Federal Court is necessary, for a variety of purposes, and under a variety of circumstances.

The only question then is, whether the enumeration of the cases assigned to the Federal Court, by this article, is likely to produce oppression? Or if there be any ground to apprehend that Congress will not, by law, provide a remedy for all probable hardships, and render the federal jurisdiction convenient to every part of the United States?

There has been no objection raised to the Federal Court having original jurisdiction, in all cases respecting public Ministers, and where a State may be a party; and these are the only cases wherein it has *original jurisdiction*. In these cases, in controversies between two or more States, and between a State and citizens of another State, and between citizens of the same claiming lands under grants of different States, the present Congress have the right of determining.<sup>(9)</sup> Here the judiciary is blended in an eminent degree with the Legislative authority; a strong reason, among many others, for new modeling that unskilfully organized body.<sup>(9)</sup>

The Convention sensible of this defect, has wisely assigned the cognizance of these and other controversies to a proper tribunal, a Court of Law.

Among these controversies, there is but one possible case where a dispute between two citizens of the same State can be carried, even by appeal, to the Federal Court; and that is, when they claim the same land under grants from different States. As their title is derived through States, this case is precisely within the reason which applies to controversies wherein two States are parties.

Notwithstanding this, we are told that in the most ordinary cases, a citizen of Virginia may be dragged within the appellate jurisdiction of the Federal Court, although the transaction which gave rise to the controversy originated between fellow citizens. This, it is said, may be effected, by assigning a bond, for instance, given by one fellow citizen to another, either to a foreigner or a citizen of another State. To this I answer, that such assignment would not be attended with any such consequence; because it is a principle in law, that the assignee stands in the place of the assignor; and is neither in a better nor a worse condition. It is likewise asserted, that if two citizens of the same State claim lands lying in a different State, that their suit may be carried to the Federal Court for final determination. This assertion is equally groundless. For this being a local action, it must be determined in the State wherein the lands lie.

And I repeat it again, because it cannot be too often repeated, that

but one possible case exists, where a controversy between citizens of the same State can be carried into the Federal Court. How then is it possible that the Federal Court can ever swallow up the State jurisdictions, or be converted to the purposes of oppression.

Several reasons occur why the Federal Court should possess an appellate jurisdiction in controversies between foreigners and citizens, and between the citizens of different States. A foreigner should have the privilege of carrying his suit to the Federal Court, as well for the sake of justice, as from political motives. Were he confined to seek redress in the tribunal of that State, wherein he received the injury, he might not obtain it, from the influence of his adversary; and by giving him this additional and certain means of obtaining justice, foreigners will be encouraged to trade with us, to give us credit, and to employ their capitals in our country. These controversies must for the most part arise from commercial transactions, by which the bulk of the people can be seldom effected. The first part of this reasoning equally applies to controversies between citizens of different States. Besides, were the jurisdiction of the Federal Court not coextensive with the government itself, as far as foreigners are concerned, a controversy between individuals might produce a national quarrel, which commencing in reprisals, would probably terminate in war. Suppose a subject of France or Great Britain should complain to the Minister residing at the seat of Congress, that it was impossible to obtain justice in a Court of Law, in Virginia, for instance. The Minister represents the matter to his Court. That Court will apply to the Congress, not to the individual State, for redress. Congress replies, "we lament that it is not in our power to remedy the evil; but we have no authority over the jurisprudence of the State." Is it probable that such an answer will be satisfactory to powerful nations? Will they not say "we must take that redress by force which your feeble government denies us? We are under the necessity of seizing American property wherever we can lay our hands upon it, till the just demands of our subjects are satisfied."

Those objectors who are so much alarmed for the trial by jury, seem little acquainted either with the origin or use of that celebrated mode of trial.

I will take leave to inform them, that by our laws a variety of important causes are daily determined without the intervention of a jury, not only in the Court of Chancery,<sup>21</sup> but in those of common law; and that by several of our acts of Assembly, the General Court has a power of assessing fines as high as 500 l. for inconsiderable delinquencies, without the intervention of a jury, even to find the fact.

As I have before observed, these causes will be from the nature of things, generally mercantile disputes; must be matters of account, which will be referred to commissioners, as is the practice of all common law Courts in similar cases. Whenever it may be necessary that the facts should be stated, no doubt they will be found by a jury of the State, from whence the cause is carried; and will be made a part of the record.

In criminal cases, the trial by jury is most important. In criminal cases the Constitution has established it unequivocally. But in having only recognized this trial in criminal, it by no means follows that it takes it away in civil cases: And we may fairly presume, that by the law which the Congress will make to compleat the system of the Federal Court, it will be introduced, as far as it shall be found practicable, and applicable to such controversies as from their nature are subjects proper to be determined in that Court.

All civilized societies have found it necessary to punish a variety of offences, with the loss of life. The life of man is a serious forfeiture: Our law has therefore humanely and justly said, that it shall not be affected, but by the unanimous opinion of twelve men. In a political view, this mode of trial, in State prosecutions, is of still greater importance. The Chief Magistrate, or the Legislature itself, of a republic, is as liable to personal prejudice, and to passion, as any King in Europe; and might prosecute a bold writer, or any other person, who had become obnoxious to their resentment, with as much violence and rigour. What so admirable a barrier to defend the innocent, and protect the weak from the attacks of power, as the interposition of a jury? In this respect, the trial by jury may well be called the palladium of liberty.

The framers of the Constitution viewing it in this light, although it was impossible to enter minutely into the subject of the Federal Court, and arrange it fully, took care to declare that, in criminal cases, the trial by jury should be preserved, lest we should have had some ground of uneasiness upon that important point.

I must farther observe, that the Federal Court has no jurisdiction over any offences except such as are against the Union: And the criminal is to be tried in the State where the fact is committed.

It is asked, why has not the Constitution more accurately defined the jurisdiction of the Federal Court, more clearly ascertained its limits, and more fully pointed out the modes of trial?

To this it may be answered, that the out-lines of the piece are traced with sufficient accuracy: That to have entered minutely into this subject, to have filled it in all its parts, would have employed almost as

much time as framing the Constitution itself, and would have spun out the work to a tedious length. In that case the Convention must have ascertained the number of inferior Courts necessary, the number of Judges, and other officers, with their salaries, the times of holding the Federal Courts, the duration of their terms; in what cases the trial shall be by jury, in what not, with an infinite variety of circumstances, the introduction of which in a system of government, would have made a strange appearance. They therefore properly left to the Congress the power of organizing by law the Federal Court: Well knowing that at least eight of the States must, from their local situation, concur in rendering it convenient to the whole.<sup>(k)</sup>

Sect. 3. *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.*

*The Congress shall have full 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 attain[te]d.*

This section is equally humane and just.

#### ARTICLE IV.

Sect. 1. *Full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State. And the Congress may by general laws prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.*

Sect. 2. *The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.*

*A person charged in any State with treason, felony, or other crime, who shall flee from justice, and be found in another State, shall, on demand of the executive authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime.*

*No person held to service or labour in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labour, but shall be delivered up on claim of the party to whom such service or labour may be due.*

The convenience, justice, and utility, of these sections, are obvious.

At present, slaves absconding and going into some of the northern States, may thereby effect their freedom:<sup>22</sup> But under the Federal Constitution they will be delivered up to the lawful proprietor.

Sect. 3. *New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the jurisdiction of any other State; nor any State be formed by the junction of two or more States, or parts*

*of States, without the consent of the Legislatures of the States concerned, as well as of the Congress.*

*The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or of any particular State.*

Upon this section I shall only observe, that illiberal and groundless prejudices against the northern States too generally prevail in this country. Hence the unwarranted jealousy of the politics of those States. But were they well founded, the powers given under this section will manifestly tend to allay our fears of a northern combination. For as the greater portion of those immense tracts of fertile land which remain uninhabited, or but thinly settled, and which are yet to be divided into new governments, lie on the south western boundary; the southern interest will be strengthened by the Representatives of the new States. Would we could forget our provincial prejudices, and consider ourselves as citizens of America!<sup>10</sup>

Sect. 4. *The United States shall guarantee to every State in the Union a republican form of government, and shall protect each of them against invasion; and on application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic violence.*

This is an additional proof of the caution of the framers of the Constitution, and how distant their views must have been from the design of introducing and establishing an arbitrary government.

#### ARTICLE V.

*The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution; or, on the application of the Legislatures of two-thirds of the several States, shall call a Convention for proposing amendments, which in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress. Provided, that no amendment which may be made prior to the year one thousand eight hundred and eight, shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no State, without its consent, shall be deprived of its equal suffrage in the Senate.*

All human productions must partake of imperfection. The members of the Convention did not pretend to infallibility: They considered that experience might bring to light inconveniences which human wisdom could not foresee—And this article wisely provides for amendments, the necessity of which time may discover.

There is not an article of the Constitution that deserves greater

praise than this. The Convention sensible that they could not foresee every contingency, and guard against every possible inconvenience: Sensible that new circumstances might arise, which would render alterations in the government necessary; have declared that whenever two-thirds of both Houses of Congress, or two-thirds of the State Legislatures, shall concur in deeming amendments necessary, a general Convention shall be appointed, the result of which, when ratified by three-fourths of the Legislatures, shall become a part of the Federal Government.

I confess myself at a loss to conceive what better mode could have been adopted. If the system be reduced to practice, and experience shall discover important defects, there can be no doubt but that two-thirds of Congress will be sensible to them, and will point them out to the different Legislatures. On the other hand, it is equally certain, that if the defects be flagrant, they will be readily seen by two thirds of the Legislatures, and a Convention will necessarily be the consequence: Nor is there any cause to apprehend, that the result of such Convention, will be rejected by one-fourth of the States: Since all the States must feel the inconvenience of important defects.

But, say the friends to previous amendments, friends, as many of them pretend even to an energetic Federal Government,<sup>(m)</sup> why not amend the Constitution before it is adopted? To this it may be answered, that they should first demonstrate their objections to be well founded; and that their proposed amendments, if they can be said to have offered any, would make it better. I am inclined to think, that neither Mr. Gerry's, Mr. Mason's, nor Governor Randolph's, would. Upon this occasion I hope I shall be excused for recommending to those gentlemen, as well as to other objectors, Dr. Franklin's last speech in the Convention, which is replete with good sense, as well as a marked deference for the opinions of others.<sup>23</sup> If the objections of these gentlemen be groundless, the Constitution needs no amendment; if they be not, it cannot be amended in the manner they propose. Mr. Mason, Mr. Randolph, the State of Virginia, raise objections: Mr. Gerry, and the State of Massachusetts, do the same: Every other citizen, every other State, has an equal right. A new Convention is formed, the proposed plan is amended, or a new one produced. It is again presented to the public eye. New blemishes appear; new amendments are thought necessary. That which Mr. Mason may think a perfection, another may think a fault: What would be agreeable to Massachusetts, might displease Virginia. In a word, there would be no end to objections, amendments, and Conventions. All federal government falls to

the ground. Anarchy ensues, and produces convulsions, which inevitably end in despotism.

#### ARTICLE VI.

*All debts contracted and engagements entered into before the adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.*

*This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the Judges in every State shall be bound thereby; any thing in the Constitution or laws of any State, to the contrary notwithstanding.*

*The Senators and Representatives before mentioned, and the members of the several State Legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation, to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.*

That treaties should be the supreme law of the land is warmly opposed by the enemies of the Constitution. This power, say they, may be converted to the most arbitrary and destructive purposes.

Treaties ought of right to be considered in the light, that the Convention has here viewed them. For why should they be made, if due obedience is not to be paid them? The negative can only be supported by those who feel it their interest, that they should be disregarded.

The objects of government are protection and security: Many national circumstances may arise wherein these objects cannot be effected, without the observance of treaties.

When we consider who it is that has the power of making treaties, the manner of his election, the checks that the Constitution has interposed to guard against his possible abuse of power, among which his liability to impeachment is not the least: When we consider the subject matter of treaties are always of national import, and cannot affect the interests of individuals, we have no reason to fear that they will be made improvidently, or converted into instruments of oppression: They may be unwise, but can never be intentionally wicked.

This, like every other article of the Constitution, was the subject of long and serious deliberation; and it was ultimately and rightly determined, that as the power of making treaties was necessary, it could no where so properly, or so safely be placed for the interests of the Union as in the hands of the President: And if when made they were not to have the effect of law, the power of making them would be nugatory. The following passage from Blackstone's Commentaries, will tend to illustrate this subject. "It is also," says that elegant commentator, "the

King's prerogative to make treaties, leagues, and alliances, with foreign States and Princes. For it is by the *law of nations* essential to the goodness of a league, that it be made by the sovereign power, and that it is binding upon the whole community: And in England the sovereign power, quod hoc, is vested in the person of the King. Whatever contracts therefore he engages in, no other person in the kingdom can legally delay, resist, or annul. And yet lest this plentitude of authority should be abused, to the detriment of the public, the Constitution (as was hinted before) has here interposed a check by means of Parliamentary impeachment, for the punishment of such Ministers, as from *criminal* motives advise or conclude any treaty, which shall afterwards be judged to derogate from the honor and interest of the nation." 1 Bl. p. 257.<sup>24</sup> I might cite all the political writers in support of the general doctrine here laid down. The Convention considered it just. They saw the necessity of entrusting the power to the President; but they also knew that in this, as in every other exercise of power, he is the Minister of the people; and that whenever in making a treaty he shall be governed by corrupt motives, he will be liable to impeachment.

Having thus gone through the different articles of the Constitution, I will now endeavour to answer two other objections that have been made to it. The first is, "that the liberty of the press is not secured." The second, "that it will annihilate the independence of the different States."

On the first objection I shall only observe, that as the Congress can claim the exercise of no right which is not expressly given them by this Constitution; they will have no power to restrain the press in any of the States; and therefore it would have been improper to have taken any notice of it. The article respecting the habeas corpus act corroborates this doctrine. The Convention were sensible that a federal government would no more have the right of suspending that useful law, without the consent of the States, than that of restraining the liberty of the press: But at the same time they knew that circumstances might arise to render necessary the suspension of the habeas corpus act, and therefore they require of the States, that they will vest them with that power, whenever those circumstances shall exist. But they also knew, that no circumstances could make it necessary that the liberty of the press should be entrusted to them, and therefore they judged it impertinent to introduce the subject. But still there are fears for the district which may become the seat of Congress, and which may be ten miles square.

Can it be for a moment supposed, that Congress will not preserve



the liberty of the press in the government of that district? Or that there exist American citizens so lost to a sense of liberty, as to reside under a government where it shall be taken away?<sup>(n)</sup>

As to the other objection, I will admit, that by this Constitution, the several States will be abridged of some of their powers; but of no more than are necessary to make a strong federal government. Sufficient still remains with the State Legislatures to preserve the quiet, liberty, and welfare, of their citizens. To them is left the whole domestic government of the States; they may still regulate the rules of property, the rights of persons, every thing that relates to their internal police, and whatever effects neither foreign affairs nor the rights of the other States. Powers weighty enough to be entrusted to most men; and which good and modest men would think sufficient to be entrusted to them. Besides we should remember that every State has its proportionate share in the national government; and that the Constitution has not only guaranteed to them a republican form, but has made *their* independence necessary to *its own* existence.

The adoption of this government will not only preserve our Union, and thereby secure our internal happiness; but will restore that consequence and respectability abroad, which have been lost since the days of Saratoga and York.<sup>25</sup> The firm confederation of thirteen States, inhabiting a fertile soil, and growing rapidly in population and strength, will give them an importance in the world, which they never can acquire when disunited: And we are assured from the best authority, that the link of the present Union is but a thread. An energetic government will give a spring to every thing: New life will be infused throughout the American system. Our credit will be restored; because the proposed Constitution at the same time that it will give us vigour, will inspire foreign nations with a confidence in us. The restoration of credit, will be the revival of commerce. The sound of the hammer will be again heard in our ports. The ocean will once more be covered with our ships, and the flag of the United States be respected by the nations.

But once disunited, these bright prospects immediately vanish: Our western hemisphere is clouded over; and destructive storms arise. Our inactivity and torpor produced by the relaxation of our laws will become inveterate, unless our internal quarrels shall rouse us into action; the seeds of which have been long sown, and disunion will make the harvest plentiful. Massachusetts and New-Hampshire have more than a pretext of quarrel in their pretensions to the province of Main; and their mutual interference in the fisheries will serve to increase the dispute. Connecticut and New-York may revive their old quarrel re-

specting boundaries. Pennsylvania will not forget that the territory of Delaware was once united to her; and will probably cast thither a longing eye. Maryland and Virginia may dispute the right to the shores of Potowmack,<sup>26</sup> and the latter may readily revive with Pennsylvania, the old dispute respecting the northern boundaries. A dispute which terminated unfavourably to Virginia, and which from the peculiarity of it, was difficult to settle.<sup>27</sup> When to such causes of dissention, we add the commercial regulations of the individual States, the ambitious views of their leaders, and the ill-grounded, though rooted, prejudices of the whole, have we not abundant reason to fear the most serious calamities from a disunion? Then will open a new scene in America; the sword is then drawn not against foreign foes, but against each other: The sword is then drawn never to be sheathed, till some State more powerful or more fortunate than the rest, shall subjugate the whole.

Examine then, my countrymen, dispassionately the proposed plan of federal government, and you will find that so far from being full of defects, it is a system well calculated to preserve the liberty, and ensure the happiness of America; and that it reflects additional honor on the names of a Dickenson, a Franklin, and a Washington.<sup>60</sup> You can not for a moment suppose that such men would deceive you! If human nature were capable of falling at once from the height of virtue to the depth of depravity; even then you were safe—for they could construct no government which would oppress you, that would not equally oppress themselves, and their posterity.<sup>28</sup>

NOTE—

I intended to have subjoined some observations upon Mr. Lee's letter to Governor Randolph; but finding that this manner of treating the subject has carried me farther than I expected, and that answers to most of that gentleman's objections have arisen naturally out of the different articles of the Constitution, I have declined it, for fear lest the length of the performance might become fatiguing. For however important such a subject may be to mankind; few have the art of treating political disquisitions in such a manner as to interest the majority of readers. I will however, in this place, observe, that Mr. Lee, to whose mellifluous tongue, I have often listened with pleasure, and who may be said to have grown old in politics, must have written that letter in the heat of his zeal, before he had well considered the proposed system of federal government; or he never could have talked of the rags and threads of representation, or laid himself so open to attack in every quarter. Mr. Lee, like most other enemies of the Constitution, objects without pointing out the alterations that would im-

prove it; asserts rather than argues: An infallible mark of a bad cause. Mr. Gerry's and Mr. Mason's objections take up but a small compass: But neither of these gentlemen has deigned to give us any thing like argument in support of his objections. Mr. Randolph has said much to point out the necessity of an energetic federal government; but nothing to prove that his proposed amendments are founded in reason. And Mr. Lee would have the government wholly new modelled to please himself. I suspect some of these gentlemen have upon this occasion too much resembled Dr. Franklin's French lady.<sup>29</sup> I would ask Mr. Lee what advantage would result from a numerous representation in a federal Congress? If the numbers in America are not greatly exaggerated, one member for every 30,000 will make the House of Representatives to consist of an 100; which number will be increased every ten years. Has not Mr. Lee's experience in public affairs taught him that even that is a number too large to transact business with facility? But let the number of that House be relatively great or small, it can in no sense be a rag or part of a representation. That House stands, as to federal purposes, in the place of the citizens of the thirteen States, and possesses all the powers conceded to it by the citizens of those States, consequently ten persons would be as much a representation as an hundred. Had Mr. Lee considered this government as intended for thirteen different States; had he considered that the powers vested in the Congress are merely national, that is such as respect America in its relative situation with foreign nations, or such as respect the relative situation of the States in their individual capacities; and that the States still retain the most important part of their rights, in as much as the right of Legislation in domestic cases, is of much greater consequence than in foreign, I think he never would have made the observation.

I confess that for some time I viewed some parts of the Constitution in the light Mr. Lee and some others have done. I at first conceived that the Senators were liable to impeachment; and that some mischief might arise from treaties of peace being made the law of the land. But after mature deliberation, I was convinced that I was mistaken in the former, and that the Constitution is right in the latter.

The foregoing little piece was intended to counteract the misrepresentations of the proposed Federal Government, which the antifederalists have most industriously disseminated in the southern counties. The writer had no idea of publishing any thing upon the subject of the Constitution, till a visit he made to one of those counties, where at the desire of his friend, he was induced to write in haste the pamphlet now offered to the public. It was to have been published time

enough to be dispersed before the elections, but the Printer found it impossible to deliver it in time.<sup>30</sup> The primary intention being thus defeated, it would not have been published at all, had it not been put into the press at the time stipulated. The writer had neither Mr. Mason's, Mr. Gerry's, nor Mr. Lee's objections by him: This it is hoped will be a sufficient apology for its inaccuracies, as far as their objections have been taken notice of. He takes this opportunity of observing, that perhaps he, and not Governor Randolph, is mistaken as to the *impeachability* of the Senate: He acknowledges that he has never conversed with any member of the late Convention upon the subject, though he still thinks that the arguments he has used are sufficiently strong to prove that the Senators neither are nor ought to be impeachable. He does not pretend to have gone fully into the objections which have been raised to the government: His design was to obviate only the most popular, and in a manner as popular as he was able.

(a) *See in particular the address and reasons, &c. of the Pennsylvania Minority.*

(b) *It is a generally received opinion in this country, that the exports of the eastern and middle States are very inconsiderable; but this is a great mistake; for when we take into consideration their wheat, flour, lumber, flax-seed, pot-ash, fish, oyl, iron, and rum, there can be no doubt but these articles produce great sums. I am informed that the European goods annually shipped to Massachusetts, are to a greater amount than those shipped to Virginia. These goods can only be paid for by the produce of their exports.*

(c) *Minority address, p. 22 23.*

(d) *Minority address. That hasty and passionate performance is full of absurdities upon this head.*

(e) *See Article the 6th of the Confederation.*<sup>31</sup>

(f) *The present King of Poland was Stanislaus Leginski, Count Powniotowsky.*

(g) *See Governor Randolph's letter. He has enforced none of his objections with reasons.*

(h) *It is to be observed, that this is the only instance where the Senate have the shadow of Executive power.*

(i) *9 Article of the Confederation.*<sup>32</sup>

(j) *Under the present Confederation, every department of government, is lodged in the same body; which alone is a sufficient reason for adopting a new federal system.*

(k) *The four eastern States, and the four southern, being at a great distance from the center, will necessarily concur in making*

*the Federal Court as convenient as possible: And therefore appeals to the Supreme Court will be allowed only in cases of great consequence.*

(l) *The vulgar in Massachusetts believe, that the practice of gouging in Virginia is so common, that half of its inhabitants have but one eye. This opinion is on a level with a declaration of a gentleman high in office, in this country, who declared himself against the Federal Government, because the eastern people were all rogues.*<sup>33</sup>

(m) *See Mr. Gerry's, Mr. Mason's, and Governor Randolph's objections.*

(n) *It is to be observed, that the consent of the State where this district shall lie, must be obtained by the Congress: And the State may stipulate the terms of the cession.*

(o) *I might have mentioned the names of a Madison, a Blair, a Hamilton, a Johnson, a King, a Rutledge. I acknowledge the abilities of Mr. Mason and Governor Randolph; but let it not be forgotten, that at the close of the Convention, there were but three dissenting voices.*

1. For George Washington's 17 September letter to the President of Congress, see CDR, 305-6.

2. The Coronation Charter or Charter of Liberties granted by Henry I in 1100.

3. The Confirmation of the Charters granted by Henry III in 1265.

4. A reference to the civil wars (also called "The Wars of the Roses") between the houses of York and Lancaster over the throne of England that lasted from 1455 to 1485, at which time Henry Tudor (Henry VII) became King of England.

5. A reference to the House of Stuart. In 1603 James VI of Scotland became James I of England.

6. In 1579 the seven northern provinces of The Netherlands were joined by the Union of Utrecht and two years later they proclaimed their independence from Spain.

7. For the seven states which had adopted bills of rights, see RCS:Va., 340, note 8.

8. At this point, "A Native of Virginia" omitted the second clause of section 2 of Article I.

9. For the role of the lieutenant governor in New York, see Thorpe, V, 2633.

10. In his 10 October letter to the Speaker of the House of Delegates, Randolph called for "a tribunal instead of the Senate for the impeachment of Senators" (RCS:Va., 273).

11. For the role of the governor in Massachusetts, and for the Council of Revision in New York, see Thorpe, III, 1893-94; V, 2628-29.

12. On 18 September Franklin, on behalf of Pennsylvania's delegation to the Constitutional Convention, suggested to the state legislature that Pennsylvania grant "the jurisdiction over any place in *Pennsylvania*, not exceeding ten miles square, which, with the consent of the inhabitants, the Congress might chuse for their residence." On 29 September the legislature resolved that this recommendation "be particularly recommended to the consideration of the Convention." On 15 December the Pennsylvania Convention resolved that, after the new government under the Constitution was organized, Pennsylvania should cede land to Congress for the federal capital (RCS:Pa., 60, 102, 611-13).

13. See RCS:Va., 483, note 2.
14. The bill of attainder came into common use during the reign of Henry VIII (1509–47). For its use in Virginia during the American Revolution, see *Convention Debates*, 6 June (RCS:Va., 972).
15. In 1764 Stanislaus Poniatowski was elected King of Poland through the influence of Catherine the Great, Empress of Russia.
16. Both George Mason and Richard Henry Lee had raised this objection (RCS:Va., 44, 65–66).
17. In his 10 October letter to the Speaker of the House of Delegates, Randolph recommended that the President be divested of his “power of pardoning for treason, at least before conviction” (RCS:Va., 273).
18. In New Jersey, the Legislative Council or upper house and the governor were “the Court of Appeals, in the last resort.” In New York, the senators, the chancellor, and the judges of the Supreme Court constituted a court for the correction of errors and the trial of impeachments (Thorpe, V, 2596, 2635).
19. See RCS:Va., 273.
20. Exodus 7:8–12.
21. In 1777 the legislature provided for jury trials in the High Court of Chancery and six years later it repealed this provision (Hening, IX, 394; XI, 343–44).
22. The Articles of Confederation did not provide for the return of fugitive slaves. However, the Northwest Ordinance of 1787, which prohibited slavery in the territory northwest of the Ohio River, provided that fugitive slaves from any of the thirteen original states be returned to their owners (CDR, 174).
23. For Benjamin Franklin’s last Convention speech, delivered on 17 September, see CC:77; and RCS:Va., 198–200.
24. Blackstone, *Commentaries*, Book I, chapter VII, 257. The italics were inserted by “A Native of Virginia.”
25. A reference to two of the most critical battles of the American Revolution—Saratoga (1777) and Yorktown (1781).
26. In 1785 commissioners from Virginia and Maryland met at Mount Vernon and signed an agreement “to regulate and settle the Jurisdiction and Navigation of Potomack and Pokomoke Rivers and that part of Chesapeake Bay which lieth within the Territory of Virginia” (RCS:Va., xxxiii).
27. “A Native of Virginia” refers to a dispute between Virginia and Pennsylvania over the southern and western boundaries of Pennsylvania. In February 1773 Pennsylvania had created Westmoreland County in the contested area, while soon thereafter, Virginia included that area in the District of West Augusta, which in 1776 was divided into the counties of Monongalia, Ohio, and Yohogania. In 1779 a commission from the two states agreed that Virginia should relinquish its claim to what is now southwestern Pennsylvania, including the region around the Forks of the Ohio. The Pennsylvania legislature immediately accepted the commission’s decision. In June 1780, the Virginia legislature ratified this agreement on the condition that the land claims of Virginians in the area were validated. Pennsylvania accepted this condition in September.
28. At this point, “A Native of Virginia” omitted Article VII.
29. See note 23 (above).
30. In January or February, Edward Carrington toured the southern counties of Cumberland, Powhatan, and Chesterfield, and discovered considerable opposition to the Constitution, largely due to the influence of Patrick Henry. On 10 February, he wrote James Madison that “Without consulting the extent of my influence, or the dangers of facing the Torrent, I have thought it my duty to make an unequivocal declaration of my sentiments, and if my efforts can work a change in even a single man, you may rely upon that change being made—my drift will be principally to turn the elections upon Men of discernment and to bring about instructions upon the point of preserving the

Union, which must, at a certain stage, separate the members from Mr. Henry" (RCS:Va., 359).

31. CDR, 88-89.

32. CDR, 89-91.

33. "A Native of Virginia" probably refers to Richard Henry Lee. In 1785 Lee, a member of Congress, helped defeat a commercial amendment to the Articles of Confederation because he believed it favored the Northern States. He wrote James Madison that: "The Spirit of Commerce thro'out the world is a Spirit of Avarice" (CC:Vol. 1, p. 27). Two years later, in his published objections to the Constitution, Lee said "that the policy of the northern states will prevent such abuses. But how feeble, Sir, is policy when opposed to interest among trading people" (RCS:Va., 64).

### **Tobias Lear to John Langdon Mount Vernon, 3 April<sup>1</sup>**

I have been honored with your favor of the 28th of Feby.—The proceedings of New-Hampshire upon the great question of the Constitution has so compleatly baffled all calculation upon the subject that I would hardly venture to say what the determination of this State will be,<sup>2</sup> even if I had not heard an objection offered to the system by a single man in it, and as there are many able & violent opponents it is impossible for any one to speak with certainty upon it.—The General will, in his letter, give you a general state of the dispositions of the people so far as they have come to our knowledge; and, notwithstanding appearances are rather unfavourable, he has still sanguine hopes of its being adopted by this Convention;<sup>3</sup>—but if it would not be thought presumption in me to differ from him in my opinion on the matter when I have no other light or information to direct me but what he is possessed of, I should say that I shall be disappointed [i.e., surprised] if it obtains here without some qualifications; for no measures have been left untryed, no arts unessayed to inflame the minds of the people & give them impressions unfriendly to the system, every exertion has been made by the enemies, while the friends of the Constitution seem to have rested the issue upon the goodness of their cause.—

The opponents here, & I beleive in most other States, have changed their mode of attack, for finding themselves baffled & their arguments confuted in their attempts to vilify the Constitution, they are now endeavouring to depreciate the characters which composed the general convention, they accuse them of interested views & treacherous designs;—these insinuations may gain credit perhaps among some of the most ignorant, but they will only be laughed at by the generality of the people.—It is said that even Colo. Mason has descended to this low method & has declared that the Convention, generally speaking, was made up of block-heads from the northern, coxcombs from the

southern, & office-seekers from the middle states.<sup>4</sup>—Mr. Martin of Maryland has been extremely copious & virulent in his publications,<sup>5</sup> but he is a man whose character is so infamous that anything advanced by him against the constitution, would where he is known, bias the people in favor of it.—Mr. Madison spent two days with us the week before last,<sup>6</sup> on his way from New York to the county in which he resides, where he intended to stand for the election but we have not yet heard whether he is chosen or not.—He is the only man in this State who can effectually combat the influence of Mason & Henery.—

1. RC, Langdon/Elwyn Papers, New Hampshire Historical Society.

2. Langdon's letter of 28 February to Lear has not been found, but on the same day he explained in a letter to George Washington why the New Hampshire Convention had adjourned on 22 February without ratifying the Constitution (Washington Papers, DLC. See also Langdon to Rufus King, 23 February, CC:554-A.).

3. Washington had written Langdon on 2 April (see Washington to Henry Knox, 30 March, note 4, RCS:Va., 522).

4. For other reports of George Mason's speech in which he allegedly made these comments, see "Impartiality," Philadelphia *Independent Gazetteer*, 4 April (Stafford County Election, II above), and Hugh Williamson to John Gray Blount, 3 June (V below).

5. Between 28 December 1787 and 8 February 1788, the Baltimore *Maryland Gazette* printed twelve installments of Luther Martin's *Genuine Information* giving his view of what had occurred in the Constitutional Convention. Several installments were reprinted in the Petersburg *Virginia Gazette* in February and March (RCS:Va., 503, note 5).

6. James Madison arrived at Mount Vernon "before dinner" on 18 March and left on 20 March "after breakfast" (*Washington Diaries*, V, 287).

## Mentor

### Petersburg Virginia Gazette, 3 April<sup>1</sup>

Messrs. HUNTER and PRENTIS, When we consider the peculiar advantages arising from a free, expeditious, and general communication of sentiments upon all subjects which concern the public weal, through the channel of newspapers—a channel through which the precious stream of political instruction is diffused, in governments like ours, more extensively than by any other method the wisdom and ingenuity of man hath as yet suggested; have we not reason to be grateful to the God of humanity and liberty, who hath placed us, after a long and painful struggle, in so eligible a situation, as to enable us to receive instruction from the ingenious and benevolent disquisitions of many of our fellow-citizens; which through the channel of a newspaper, and under the auspices of a free press, have gone forth as political missionaries, to inform the minds and enlarge the understandings of the bulk of the people, as to those leading and essential points which contain every thing dear to them as men and members of society? If these advantages are to be derived from a free circulation of knowledge



among that class of men who most require it, what evil consequences may we not apprehend from a contrary conduct being persued? What have we not a right to expect will be the fate of our natural rights—and what new species of tyranny may we not experience, when any one individual, by virtue of, and under the authority of office, shall dare, under the eye too of our rulers, to check or suppress an institution so highly necessary and beneficial as that established even in the bondage of monarchy, for the conveyance of letters, newspapers, &c.? What must be our opinion of the merits of that system (if it be done to promote any particular one) which should require the adoption and exertion of such unwarrantable and injurious powers to support and establish it? What must we think of the regard of those in authority, who either encourage this unfriendly measure, or connive at its continuance, by not suppressing it? In short, are we not to think that our rights and liberties, our instruction and welfare, are no longer leading objects in the eyes of those we have set over us; and that they are sighing after the loaves and fishes of monarchy, when they shall permit any measure to be adopted and continued, which shall be pregnant with mischief to their constituents; or when they shall be so unmindful of their trust, as to suffer any man to exercise the powers of office, who shall have shewn himself the pliant agent for the basest of purposes?

I am led into this train of thought, Gentlemen, by having noticed for some time past, and in this most important of all periods to the citizens of America, the great difficulty of procuring intelligence from the northern and eastern states, respecting their debates and proceedings on that grand question which hath now become the object of anxious attention to every well-wisher of his country; and was not able to account for so unfortunate a circumstance as I then conceived it, until I observed the iniquitous mystery, in some degree, developed by a writer in a late Baltimore paper.<sup>(a)</sup>

In order that the suggestions of that writer may be corroborated or confuted by concurrent testimony, and as the present is a period too big with important consequences, to prevent any man from making every inquiry necessary to his welfare and happiness, I must request you to inform the public, through your very useful paper, in what manner the newspapers have been transmitted to you from that quarter of the United States—whether you have received them as regularly as the late rigorous season would permit? If not, at what period did the regular conveyance of them cease? Happy shall I be to find that my apprehensions have been without foundation—but should they appear to be supported by melancholy fact, I shall lament the early departure

of that noble, disinterested, independent spirit of republican virtue, which was once so dear to, and idolized by, the patriotic sons of Columbia!

(a) The mutual exchange of newspapers by the Printers on this continent, in the mail, was always exercised under the British government, and continued since the revolution, until a few weeks ago, when Ebenezer Hazard, Esq. Post-Master-General, *prohibited* the sending any newspapers in the mail. See *Maryland Journal*, March 18.<sup>2</sup>

(In compliance with the request of the author of the above, the Printers beg leave to inform the public, that since the beginning of January last, no newspapers have arrived to them from any of the Printers to the northward and eastward of Philadelphia; though previous to that time they came regularly to hand. The PETERSBURG INTELLIGENCER, is forwarded from this office to most of the Printers on the continent; but if the mode of conveyance by the mail is stopped, it is highly probable they are detained in some of the Post-Offices.)

1. On 1 January Confederation Postmaster General Ebenezer Hazard instituted a new policy that ended the free exchange of newspapers among printers and that allegedly restricted the circulation of newspapers. For a discussion of the controversy over Hazard's policy and its impact in Virginia, see "The Post Office and the Circulation of Newspapers," *Winchester Virginia Gazette*, 26 March–9 April (RCS:Va., 517–20).

"Mentor" was reprinted in the *Philadelphia Independent Gazetteer*, 18 April, and the *Winchester Virginia Gazette*, 23 April, under the dateline "From the Petersburg Intelligencer." The *Gazette's* dateline also indicated that "Mentor" first appeared on 3 April. Since the *Virginia Gazette*, and *Petersburg Intelligencer* for 3 April is not extant, "Mentor" is transcribed from the *Philadelphia Independent Gazetteer*.

The editorial response to "Mentor" (within angle brackets) and the excerpt from "Manco," *Maryland Journal*, 18 March, were reprinted only in the *Philadelphia Independent Gazetteer*. The *Winchester Virginia Gazette* had reprinted "Manco" in its entirety on 2 April. (For "Manco," see note 2, below.)

2. See "Manco," *Maryland Journal*, 18 March (CC:Vol. 4, 561–62).

### **Baltimore Maryland Gazette, 4 April<sup>1</sup>**

*Extract of a letter from a gentleman of Richmond, in Virginia, to a gentleman in this town, dated 25th March, 1788.*

"After the maturest reflection I still continue of opinion, that the plan of national government is unsafe as it stands; and that the liberties of the people will be lost if ratified without considerable amendments.—You may rely on this as a fact, that the bulk of the most respectable and independent men in this Commonwealth will not re-

ceive the new government, unless it is previously amended; they treat with ridicule and contempt the idea of first ratifying and afterwards proposing amendments; they observe that only small flies can be caught in so thin a cobweb.—The people in Virginia are more alarmed than wisdom or true patriotism would wish.—In some States the people are fast asleep, with us they are all alive.—Our elections are almost over, and although the most flagrant falsities were industriously propagated as to the conduct of other States, and with respect to the sentiments of gentlemen candidates, and certain influential characters who supported their elections, yet the choice of the people is decidedly in favour of the opponents of the system in its present shape. You may rest assured, that Mr. Randolph, and Messrs. Richard and Arthur Lees are firmly in opposition.—The Northern Neck will be rather in favour of the new government, a majority of the middle county decidedly against it; and the great body of the State, on the south-side, are almost unanimous in opposition. The back country are undecided, but if the Kentucky people come down, they are to a man against it.—This is a candid and true statement, as far as I can collect; and you know I draw my information from good authority.—It is a very general sentiment here, and the wish of all parties, that the Convention of your State would adjourn to the time of the meeting of our Convention, that they might consult and act in harmony and concert.—The commercial interests of the three STAPLE States, Maryland, Virginia, and North-Carolina, are the same; and no man can reasonably object to deliberation and a free intercourse of sentiment between these States, on a question of so vast importance.—Furious and red-hot zealots may attempt to preclude any delay, and may push for an immediate decision by your Convention; but we hope temperate and moderate councils will prevail.—If Maryland should hastily and rashly adopt the national government, and Virginia firmly refuse, and North-Carolina follow her example, the consequences should be seriously considered.—We are neighbours and friends, and most intimately connected by every tie that can bind mankind. The wise and good among you will endeavour to cement our union; the foolish, wicked, and interested only will take any measure to divide us.”

1. Reprinted: Philadelphia *Independent Gazetteer*, 11 April.

**George Nicholas to James Madison**  
**Charlottesville, 5 April<sup>1</sup>**

I consider the present moment as so important to America, that I shall take the liberty of communicating to you my sentiments, as to the conduct that her real friends ought to pursue.

The adoption of the new constitution (on which I conceive her salvation to depend) in this state depends much on the conduct of the other states; from the list of members returned to the convention, I think a majority of them are federal; but that majority if it exists, will be but small, and I apprehend some of them will fear to give the last hand to the business, unless the conduct of the other states will justify it. The adjournment of the New-Hampshire convention puts an end to the hope that nine will adopt before the meeting of our convention, but it will be a great matter to have the sanction of eight states. Maryland and South-Carolina are the only ones which are now to meet, and I flatter myself will both be favorable to the plan; but I apprehend great efforts will be made to induce them to adjourn until after our meeting, and if this can be brought about, depend on it Sir, it will have great influence in this country; if you consider this matter in the same point of view that I do, may I hope that you will impress on your friends in those states, the importance of their sanction prior to the meeting of this state.<sup>2</sup> I have great expectations from the influence of Mr. Pendleton, and know that effort will be used to induce him to come into the proposition of demanding amendments before the adoption, you can prevent the danger from that quarter. Not having been in the state for some time, perhaps you are a stranger to the real sentiments of some of the leaders of the opposition. You know better than I do what was the conduct of Mr. Mason at the convention, immediately after his return, he declared, that notwithstanding his objections to particular parts of the plan, he would take it as it was rather than lose it altogether; since that I have reason to believe his sentiments are much changed which I attribute to two causes: first the irritation he feels from the hard things that have been said of him, and secondly to a vain opinion he entertains (which has industriously been supported by some particular characters) that he has influence enough to dictate a constitution to Virginia, and through her to the rest of the union. Mr. Henry is now almost avowedly an enemy to the union, and therefore will oppose every plan that would cement it. His real sentiments will be industriously concealed, for so long as he talks only of amendments, such of the friends to the union, as object to particular parts of the constitution will adhere to him, which they would not do a moment, if they could be convinced of his real design. I hope to be possessed of sufficient information by the meeting of the convention to make that matter clear, and if I am it shall not be withheld. The opposition except from that quarter will be feeble. Our friend E: R.<sup>3</sup> talks of a compromise between the friends to the Union, but I know of but one that can safely take place; and that is on the

plan of the Massachusetts convention:<sup>4</sup> it appears to me impossible, that another continental convention assembled to deliberate on the whole subject, should ever agree on any general plan.

Let the decision of our convention be what it may, I think it will be of great consequence that an address to the people at large should go forth from such of the members as are friends to the constitution: if this had been done in Pennsylvania, it would have counteracted much of the poison contained in the *dissent of the minority*.<sup>5</sup> I consider the situation of the friends as very different, and requiring them to pursue a line of conduct, which would not be justifiable in the minority after the adoption of the government. Their only object could be to wish to foment a civil war to destroy a government, which they suppose not perfect; but if this government is rejected, America will be left without one, at least only in possession of one which all parties agree is insufficient; it will therefore be our duty to state to the people the necessity of a change and place in it's true point of view the one now offered. Nine tenths of the people are strong friends to the union, and such of them as are opposed to the proffered government, are so, upon suppositions, not warranted by the thing itself. No person in the convention can so well prepare this address as yourself, and if it appears as important in your eyes as it does to me, I hope that you will undertake it. The greater part of the members of the convention will go to the meeting without information on the subject, it will be very important to give this as early as may be, and if possible before they go from home. *Publius of the federalist* if it is published in a pamphlet, would do it better than any other work; if it is published can I get the favor of you to procure me thirty or forty copies of it, that I may distribute them; if they were sent to Orange or Richmond I should soon get them.<sup>6</sup>

The only danger I apprehend is from the Kentucky members; and one consideration only has any weight with them: a fear that if the new government should take place, that their navigation would be given up. If Mr. Brown could be satisfied on this subject, and would write to that country, and also have letters here for the members, I am satisfied they would be right.<sup>7</sup>

You will pardon this liberty and believe me to be with respect and esteem Dr. Sir, Yr. obdt. servt.

[P. S.] I wrote the above on a supposition that you had or would immediately return to New York but being informed yesterday that you did not intend it, one other consideration appears as important as any that I have yet mentioned. If the convention adopts the new government it will depend on the next assembly whether it shall be

set in motion; if they reject it, no plan for a substitute can come from any other quarter: so that on either event it will be material to have a majority there federal. We laid the ground work of a reform in our courts of justice last fall, it requires the finishing hand; you know the number that are opposed to all reforms, and how formidable they will be with Henry at their head. If then as I suppose the truth is, that nothing very important can come before the present Congress, will it not be necessary for you to go into the assembly. At any rate none but federal men should be elected.

Has Congress determined on any thing as to the separation of Kentucky?<sup>8</sup> I am much interested in the welfare of that country as I expect to reside in it within twelve months.<sup>9</sup>

1. RC, Madison Papers, DLC. Madison received this letter on 7 April and replied the next day (below).

2. By 10 April Madison, at home in Orange, had written to Daniel Carroll and James McHenry of Maryland and "a friend" in South Carolina. The letter to Carroll was sent unsealed to George Washington who was asked to read it, seal it, and to change the address to Annapolis if Carroll was there rather than in Georgetown. The letter to Madison's "friend" in South Carolina was sent to New York, and from there it was forwarded to Charleston by Cyrus Griffin, a Virginia delegate to and president of Congress. (See Madison to Washington, 10 April, and Griffin to Madison, 28 April, both below.) On 20 April Washington wrote to Thomas Johnson, a delegate to the Maryland Convention, requesting that that convention not adjourn to a later date (below).

3. Edmund Randolph.

4. The Massachusetts Convention ratified the Constitution on 6 February, recommending nine amendments. They were not a condition of ratification; the state's representatives to the first Congress under the Constitution were enjoined "to exert all their influence, and use all reasonable and legal methods to obtain a ratification" of the amendments (CC:508).

5. See "Peregrine," 2 April, note 2 (above).

6. See "The Circulation of the Book Version of The Federalist in Virginia," 2 April (above).

7. On 9 and 21 April Madison wrote to John Brown, then serving as a Virginia delegate to Congress. In the 9 April letter, Madison noted that he had written to several Kentuckians, but he did not ask Brown to write to friends in Kentucky (below). He probably asked him to do so in his letter of 21 April (not located), to which Brown replied on 12 May (below).

8. For Congress' action on Kentucky statehood, see RCS:Va., 330-31, note 2.

9. Nicholas moved to Danville, Ky., early in 1789.

### **Charles Lee to Richard Henry Lee Richmond, 6 April (excerpt)<sup>1</sup>**

... Except from Kentucky the conventioners are known, and the sentiments of almost all of them have been declared which furnishes some ground for ascertaining the decision of Virginia with respect to the constitution. From the most correct information that has been yet obtained the majority is in favor of the constitution & only about ten

or twelve votes. In Kentucky the people are said to be divided but in general they are said to be opposed. Thus it seems extremely doubtful, if the abilities and influence of the leaders, and the number of influential men be not brought into consideration. But in this point of view the probability is much increased in favor of the opinion that it will be agreed to. . . .

1. RC, Washington Papers, DLC. This letter was enclosed in Richard Henry Lee's letter of 8 July to Washington. The part of the letter omitted here concerns a deed to the land of William Booth. Washington and Richard Henry Lee were trustees appointed by the legislature to dock the entail of some of Booth's lands for the benefit of William Aylett Booth (Hening, VIII, 640-41; and *Washington Diaries*, V, 223n).

**Edward Carrington to James Madison**  
**Richmond, 8 April (excerpts)<sup>1</sup>**

Having an opportunity by Mr. Burnley I embrace it to acknowledge the Rect. of your favor of the 3d. Ult. from N. York,<sup>2</sup> and also to congratulate you upon the success which attended your efforts to turn the sinners of Orange from their wicked ways.

. . . Most of the elections in the upper & middle parts of the south Side of James River, have been made in Phrenzy, and terminated in deputations of weak & bad men, who have bound themselves to vote in the negative, and will in all cases be the tools of Mr. H.<sup>3</sup>—but I hope there will be enough of another discription to disappoint his views. much depends upon nine States having actually adopted by June, as this point would clearly unite the federalists of every discription—the event in N. Hampshire breaks this prospect, unless Rhode Island should, in some of her whimsical frolics take a turn into the right way, of this some late movements there give us some symptoms.<sup>4</sup> Mr. Kinlugh<sup>5</sup> arrived here this morning directly from south Carolina—He says the convention of that State is to meet on the 12th. of May, and that three fourths of the people are warm Constitutionals.

I have had much conversation with the Chief Justice<sup>6</sup>—he dislikes the Constitution, but dreads the consequences of a disunion so much, that he is determined to place us in no situation which shall in the least degree hazard such an event—he is indeed much discontented with our present situation and thinks that no change can be against us.

do you return to N. York before June? I shall set out tomorrow<sup>7</sup>—command me there or elsewhere—I shall be glad to here from you, and will give you every thing which occurs worth communicating

1. RC, Madison Papers, DLC. The omitted portion of this letter is printed in Powhatan County Election (II above).

2. The 3 March letter to Carrington has not been located. On the same day, however, Madison also wrote letters to George Washington, Edmund Randolph, and Edmund Pendleton, in which he discussed the adjournment of the New Hampshire Convention without ratifying the Constitution and his imminent departure from New York City for Virginia. (See RCS:Va., 454–55; CC:587; and Rutland, *Madison*, X, 554.)

3. For Carrington's earlier comments about Patrick Henry's influence, see his 10 February letter to Madison (RCS:Va., 359–61).

4. Carrington probably refers to the Rhode Island legislature's 1 March decision to submit the Constitution to a statewide referendum to be held on 24 March.

5. Francis Kinloch, a Charleston planter, served in the South Carolina House of Representatives and in May voted to ratify the Constitution in that state's convention.

6. Edward Carrington's brother, Paul, was chief justice of the state's General Court and a Charlotte County delegate to the state Convention, where he voted to ratify the Constitution.

7. Both Carrington and Madison were delegates to Congress. Madison did not return to New York City until mid-July, after the Virginia Convention had adjourned.

### James Madison to George Nicholas Orange, 8 April<sup>1</sup>

Your favor of the 5th. instant was duly handed to me last evening. The sentiments contained in it appear to me to be dictated by the most perfect propriety both as they regard the importance of the present moment, and the measures which it renders expedient. As I wish not to decline any cooperation that may tend to save America from anarchy and disunion, I shall cheerfully execute the task you suggest of urging on Gentlemen in Maryland & South Carolina the mischievous influence here of such examples as N. Hampshire has set. I hope you will not omit the same precaution as to Maryland at least. I know that the opposition there, despairing of success in a direct attack on the Constitution, mean to contend for a postponement of the question.<sup>2</sup> It is extremely probable that the same policy will occur or be suggested to the opposition in S. Carolina. I will write to several Gentlemen in Kentucky also, with a view to counteract efforts which I understand are on foot, for turning their jealousy on the subject of the Mississippi, against the proposed change in the fœderal System.<sup>3</sup> It is obvious to me that the obstacles to a sacrifice of that important object will be increased at the same time that the pretexts for it will be removed, by an establishment of the new Government; and that this event alone can promise in any short time such arrangements with Spain as Kentucky must wish for. No fœderal Government will in my opinion be able very long to procrastinate an effectual assertion of the right agst. the Spaniards. The chief question with Kentucky ought therefore to be whether the present or the proposed system be most likely to obtain a positive and speedy recognition of it. From the present she cannot possibly have any thing to hope. From neither do I



believe she has any thing to fear. You will do well I think to correspond also with Kentucky on this subject. I hope indeed that you have already done so. Your known purpose of becoming a resident must secure you an attention that no other could expect. The necessity or at least the nature of an address to the people from the friends of the Constitution may perhaps be best judged of, after the views of the adverse party are bro't forward in the Convention, and the event reduced to certainty. And I should suppose the preparation of it may be brought within the compass of time then attainable.

I think entirely with you on the subject of amendments. The plan of Massts. is unquestionably the Ultimatum of the fœderalists. Conditional amendments or a second general Convention will be fatal. The delay only of such experiments is too serious to be hazarded. It is a fact, of which you though probably not a great number may be apprized, that the late Convention were in one stage of the business for several days under the strongest apprehensions of an abortive issue to their deliberations. There were moments during this period at which despair seemed with many to predominate. I can ascribe the final success to nothing but the temper with which the Members assembled, and their ignorance of the opinions & confidence in the liberality of their respective constituents. The circumstances under which a second Convention composed even of wiser individuals, would meet, must extinguish every hope of an equal spirit of accomodation; and if it should happen to contain men, who secretly aimed at disunion, (and such I believe would be found from more than one State) the game would be as easy as it would be obvious, to insist on points popular in some parts, but known to be inadmissible in others of the Union. Should it happen otherwise, and another plan be agreed on, it must now be evident from a view of the objections prevailing in the different States among the advocates for amendments, that the opponents in this State who are attached to the Union and sensible of the necessity of a nervous<sup>4</sup> Government for it, would be more dissatisfied with the result of the second than of the first experiment. From the account I have of Mr. Pendleton's opinions I have no great apprehensions of his falling into the scheme of preliminary alterations. I had some days ago an opportunity of conversing pretty fully with his colleague & particular friend Col. Taylor,<sup>5</sup> and of stating such facts & remarks as appeared to combat that scheme. Should a convenient occasion offer, I may take the liberty of repeating them to the Chancellor. When I write to [our?] friend in Richmond I shall feel no restraint from giving him similar intimations.<sup>6</sup> If report be not more than usually incorrect as to the conduct and language of Col. Mason, he has totally aban-

doned his moderation on this subject; and is pursuing his object by means which will neither add to the dignity of his character; nor I should hope, to the success of his cause. The manner in which you account for his intemperance is, I fancy, the true one.

Congress had come to no decision when I left N. York, on the proposed separation of Kentucky. Nine States had been but a few days only on the floor, and were then engaged on the subject. I waited as long as I possibly could in hopes of seeing something done, but was not gratified; and I learn by subsequent information that the Representation soon fell to seven States, which had suspended the consideration of the subject. The opposition to the measure had not fully shewn itself when I came away. It will proceed chiefly from a scruple drawn from the peculiar State of our affairs, and from the defect of power under the existing Confederation.<sup>7</sup> There are individuals who will throw obstacles in the way, till Vermont can be let in at the same time. And others, I suspect, who will do the same, with the covert view of irritating Kentucky into an opposition to the new Government. Being aware of the influence which the temper of Kentucky might have on the event in this State, I was anxious that Congress should at once accede to her wishes; without regarding scruples which otherwise could not be denied to have weight. I fear somewhat that Mr. Brown's anxiety to obtain a favorite point for his district, may expose him to impressions from the difficulties I have hinted, which will not be auspicious to the present conjuncture of things. This however is but conjecture. His judgment I have reason to believe is favorable to the New Government as it relates to the general interest of America; nor do I know that he views it in a different relation to that of Kentucky in particular. I know only that pains were taken with him on his way to Congress, if not also before he set out, to alarm his fears for the Mississippi, and prepare him for unfavorable impressions. I will think of the hint you throw out, and will endeavor to give it effect, if I can devise any convenient means of success.

It is not in my power to obey the last of your suggestions. I have made declarations which do not now admit of my being a candidate for the assembly. If I have not mistaken the law a member of Congress is *ineligible* to a seat there;<sup>8</sup> and I do not know that I could resign that Character to any existing authority. But independently of these considerations, I am led to suppose that advocates for the requisite measures for setting the new machine at work may be needed as much in Congress as in this State. I do not understand that any opposition will be made here to Mr. Gordon & Mr. Burnley; both of whom are declared and the former a proved federalist<sup>9</sup>—The publication of which

you wish a number of copies, is to come out in two parts. The first is probably ready by this time. The other will be delayed a few weeks. I will take measures for obtaining as soon as possible the number you desire.—I have just recd. from Mr. Griffin some of the late numbers which are herewith inclosed.<sup>10</sup>

[P.S.] I find that Rhode Island has submitted the Constitution to the people to be decided by majority of voices *immediately* given. This mode precludes every result but that of a total adoption or rejection; and as the latter was foreseen, shews a determination there to involve all things in Confusion. The question will be decided precisely by the same majority as have prevailed in every other instance of late; the paper money party being agst. & the other party for the Constitution.<sup>11</sup>

1. RC, Reuben T. Durrett Collection, George Nicholas, Department of Special Collections, University of Chicago Library.

2. Madison had some cause for concern. For example, on 20 April James McHenry, a Maryland Convention delegate, wrote to George Washington that "Our opposition intend to push for an adjournment under the pretext of a conference with yours respecting amendments. As I look upon such a step to amount to a rejection in both States I shall do every thing in my power to prevent it" (Washington Papers, DLC).

3. The next day, Madison wrote to John Brown of Kentucky, then serving as a Virginia delegate to Congress in New York City, indicating that he had written to some Kentuckians about the Mississippi River (below). Brown replied on 12 May (below).

4. At this time, "nervous" meant "strong, vigorous, robust."

5. James Taylor and Edmund Pendleton represented Caroline in the state Convention, where they voted to ratify the Constitution.

6. Probably Governor Randolph, to whom Madison wrote on 10 April (below).

7. The Articles of Confederation contained no provision allowing Congress to create new states. In July 1787, however, Congress assumed the power to create new states when it adopted the Northwest Ordinance (CDR, 168–74).

8. A law, passed in 1783, prohibited dual membership in the state legislature and in Congress (Hening, XI, 249–50).

9. In this month, James Gordon, Jr., and Hardin Burnley were elected to represent Orange County in the House of Delegates.

10. Cyrus Griffin regularly sent Madison New York City newspapers that contained *The Federalist*. His letters of 17 and 24 March probably included essays 64–73, printed between 5 and 21 March. (Madison had left New York around 3 March.) Inadvertently Griffin excluded essay 70 (Rutland, *Madison*, XI, 3, 5; and Griffin to Madison, 28 April, below).

11. On 24 March the Constitution was defeated in a statewide referendum 2,711 to 239.

### Henry Knox to John Sullivan New York, 9 April (excerpt)<sup>1</sup>

... North Carolina is not to meet untill July—The general opinion seems to be that they will follow the example of Virginia—The convention of which meets in June—The constitution in that state will meet with great opposition indeed, and the issue extremely doubtful—

As far as information has been received of the elections which were finished in March, the complection is favorable The arguments against it there are mostly local although many ostensible ones will appear—Impositions by the eastern states on their commerce;<sup>2</sup> & Treaties being the supreme law of the land thereby compelling the payment of the british debts<sup>3</sup> will be the real objections of the greater part of the opposers—while some others apprehend a consolodation of the Union as a real evil. . . .

1. RC, New Hampshire Miscellany, 1782–1809 (Peter Force), DLC. Printed: CC:669. In the omitted part of the letter, Knox speculated on ratification prospects in Rhode Island, New York, Maryland, and South Carolina. Sullivan (1740–1795), a lawyer, was president of New Hampshire, 1786–88, 1789–90. He had previously served as a delegate to Congress, 1774–75, 1780–81; a major general in the Continental Army, 1776–79; and state attorney general, 1782–86. As president of the state Convention, he voted to ratify the Constitution in June 1788. Knox answers Sullivan's letter of 27 February (not found) in which Sullivan probably informed him that the first session of the New Hampshire Convention had adjourned on 22 February without ratifying the Constitution and that it would reconvene in June. (For a description of what the missing 27 February letter probably said, see Knox to George Washington, 10 March [CC:610], and for the Convention's adjournment, see CC:554.)

2. Knox probably refers to the Constitution's provision permitting Congress to pass commercial acts by a simple majority vote in both houses, instead of the two-thirds majority wanted by many Southerners.

3. On the payment of British debts, see RCS:Va., xxv–xxvii.

### **James Madison to John Brown Orange, 9 April<sup>1</sup>**

The returns of our elections as far as they are published, have raised somewhat the hopes of the friends to the Constitution. Those who are best informed think the adverse party will be outnumbered at the start. It seems pretty clear now that in point of characters the advantage will be on the federal side. The three chancellors<sup>2</sup> are elected and are to be included in the description. So are Innes, Marshal, Nicholas, Corbin, Gl. Jones, Zachy. Johnson, Stuart, White, Walter Jones, and probably a number of others in Counties not yet heard from. The principal characters on the opposite side are only Henry, Mason, Grayson, Harrison, Tyler & M. Smith, who will be reinforced by a few secondary characters of some influence. I say nothing of the Governour: because it is not yet certain which party will have most of his aid; nor of Monroe whose precise sentiments are not generally known. If I mistake not, he will be found not an enemy to the Constitution. A good deal may depend on the vote of Kentucky in the question. I have taken the liberty of stating to several gentlemen in that quarter my opinion that the constitutional impediments to improper measures

relating to the Mississippis will be greater as well as the pretexts for them be less under the new than the existing System; and that the former alone can promise any effectual measures either in favor of that object, or of a dispossession of the English of the posts,<sup>3</sup> an object of still more immediate consequence perhaps to the district. I understand that hitherto the people there have been friendly to the Constitution. According to current report, a division of opinions is extending itself to them. I have not heard much from the Counties on the western side of the Alleghany. The Counties between that and the Blue ridge, have without an exception I believe, elected foederal members. The main body of the antifederalists, lies as was conjectured on the South Side of James River. There appears however to be much less unanimity even there than was feared. Very low down the Counties have chosen foederalists.

Present my compliments to the family if you please, and particularly to Genl Irvine & Col. Reed if they be still a part of it.

1. RC, Brown Papers, Yale University. Brown replied on 12 May (below).

2. Edmund Pendleton, George Wythe, and John Blair were judges on the three-member High Court of Chancery.

3. On the matter of Great Britain's retention of its Northwest posts in violation of the Treaty of Peace of 1783, see RCS:Va., xxvi.

**George Nicholas to David Stuart**  
**Charlottesville, 9 April<sup>1</sup>**

I received from Mr. Mitchell Judge Hanson's performance<sup>2</sup> which I think sensible and well written. From the list of members returned to the convention I think we have a majority but fear it will be but a small one. The business will be much affected by the conduct of Maryland; I apprehend great efforts will be made to get them to adjourn their convention: pray exert your self and get Genl. Washington to do the same to prevent this.<sup>3</sup> You may be assured if this should take place there will be very little chance of success in this state. My anxiety increases daily on the subject and I am hourly more fully convinced that the salvation of America depends on the adoption. Reflection has also satisfied me as to many parts of the constitution that I at first disapproved, then as now but two alterations that I would have made if in my power, the one respecting the courts, the other the power to impose excises; America cannot for many years be in such a situation as to make it possible to raise revenue that way, and the attempt will be expensive and dangerous. But I shall be willing to come into any other plan of amendments (on the Massachussets plan)<sup>4</sup> which will be agreeable to the bulk of the people for one of the greatest arts in

government is to accommodate itself to their wishes in all matters which will not destroy its energy.

I have seen Luther Martin's publication, or at least part of it, and think it will be of great service if we could have it in Richmond; particularly those parts where he speaks of the slaves and the advantages which this government gives to the large states<sup>5</sup> Cannot you procure it.

1. RC, C. E. French Collection, MHi. Nicholas did not include the place of writing, but he probably wrote this letter from Charlottesville, from where he had written James Madison on 5 April (above).

2. For Judge Alexander Contee Hanson's Federalist pamphlet, signed "Aristides" and published in Annapolis, Md., on 31 January, and its circulation in Virginia, see Hanson to Tench Coxe, 31 January, note 2 (RCS:Va., 521).

3. On 5 April Nicholas had expressed this concern to James Madison (above), and five days later Madison relayed it in a letter to George Washington (below). For a similar concern by Washington, see his 20 April letter to Thomas Johnson of Maryland (below).

4. See Nicholas to Madison, 5 April, note 4 (above).

5. The fifth installment of Martin's *Genuine Information*, published in the *Baltimore Maryland Gazette* on 11 January (CC:441), argued that the apportionment of the House of Representatives according to population, including the three-fifths rule for slaves, gave Virginia an overwhelming influence in the new government. (For a general discussion of the *Genuine Information*, see CC:389.) Several installments of the *Genuine Information* had been reprinted in the *Petersburg Virginia Gazette* in February and March. (See "An Impartial Citizen" VI, 13 March, RCS:Va., 503, note 5.)

## Cassius II: To Richard Henry Lee, Esquire Virginia Independent Chronicle, 9 April<sup>1</sup>

SIR,

March 28, 1788.

In a preceding letter, I took the liberty to detect some flagitious errors, which you had committed, and endeavored, with an honest zeal, to remove, from the minds of my fellow citizens, the unfavorable impressions, which they might, perhaps, have made. Do not suppose, sir, that I am actuated on this occasion by private pique or personal resentment. The one I, solemnly, disclaim. The other I, sincerely, despise. To defend the foederal constitution from the insidious attacks of its designing enemies, and to exhibit, to the public, the treacherous arts, which you have, industriously, practised to injure it, are the real motives, which induced me to reply to your letter. Possessing the confidence of your country, and, lately occupying one of the most honorable employments under government,<sup>2</sup> it was to be presumed, that your political conduct had, always, been regulated by the purest principles of patriotism. A stranger to your person, I had, credulously, conceived a favorable opinion of your public character. I had been taught to believe, that you, invariably, acted zealous the part of a

sincere friend to your country, and, that you possessed all those qualifications, which are, so peculiarly, calculated to dignify public, and to embellish private, life. But alas! *fame*, like *fancy*, sometimes delights in fiction, and often, confers qualities and virtues on objects which are, really, destitute of both.

You ask "What is the power, given to this ill constructed body? To judge" you reply "What may be for the general welfare, and such judgments, when made, the acts of Congress become the supreme laws of the land. This seems a power coextensive with every possible object of human legislation." This, sir, is the "ill constructed" answer, which you have given to your own indecent question. A moment's calm reflection must have informed you, that no such legislative latitude is given to the house of representatives, except in the imposition of taxes, and in that branch, it must, necessarily, be intrusted, because the line could not be drawn. Congress can make no laws, except such, as are, essentially, necessary to carry into execution the particular powers, given to them by the constitution. The clause, which follows the enumeration of these powers, invest[s] Congress with a right "to make all laws, which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or in any department, or officer thereof." But, what are these powers with which Congress are invested? Are they unlimited? Are they "coextensive with every possible object of human legislation?" Divest yourself, sir, for a moment, of your violent prejudices, and, read the fœderal constitution with the philosophic calmness of a man, who is in search after truth, and, unless your mind is obstinately shut against conviction, you will find, that they are not.

"There is no restraint," you say, "in form of a bill of rights to secure (what Doctor Blackstone calls) that residuum of human rights, which is not intended to be given up to society, and, which is, not indeed, necessary to be given up for any social purpose. The rights of conscience, the freedom of the press, and the trial by jury are at mercy.[']"<sup>3</sup> Really, sir, I am at a loss, which to admire the most—the uncommon talent, that you have discovered for inventing objections—or the consummate assurance, with which you have imposed these objections on the public. Alternately impelled by the weakness and fury of your passions, you go on, in a rapid progression, from error to error, without giving your reason a moment's interval, to exert itself. You, certainly, must know, sir, that bills of rights are, only, necessary in those governments, in which, there is a claim of power independent of, and not derived from, the people; such as, the divine and hereditary right

claimed by Kings. Six states are destitute of bills of rights, yet they are no less free, than we. The foederal constitution ought to be considered, as a specification of powers, granted by the people to Congress. Had we received a bill of rights from that body, we should, tacitly, have acknowledged its superiority. But, as Congress can exercise no power, except such as are expressly given to them by the people, a bill of rights is, not only, unnecessary, but, would be, highly dangerous. Because, if an enumeration was made, it might, then be supposed, that every right was given up, but what was reserved. The experience of England proves this. For you know, sir, that it was not, until they had obtained many charters or bills of rights, that they found their liberties secure. The same mode of reasoning may be employed to refute your objection, that "the rights of conscience and the freedom of the press" are not secure. For, as the constitution gives Congress no power over either, it is not to be supposed, that they will dare to exercise any. Your objection, that "the trial by jury is at mercy" may require a little more attention. Our bill of rights, only, declares, that it shall be had in all criminal cases, and ought to be preferred in civil. The foederal constitution declares, that the trial of all crimes, except in cases of impeachment, shall be by jury, and, also implies, that, when it can be had in civil controversies, it is preferable. But, it leaves, as it necessarily must, the drawing the particular lines to Congress, because there are many disputes, in every state, which cannot be determined by juries.

You say "For although inferior Congressional courts may, for the above purposes, be instituted in the different states, yet, this is a matter, altogether, in the pleasure of the new legislature, so that, if they please not to institute them, or if they do not regulate the right of appeal reasonably, the people will be exposed to endless oppression." Can it be the *learned* Richard Henry Lee; who has made this remark? What do you mean, sir, by such uncandid insinuations? Do you wish to destroy that public confidence, which is the soul of all happy governments, and to disseminate the seeds of suspicion and discontent among us? Imprudent man! are you, not, aware of the injury, which you are doing yourself? Do you, not perceive, that you are becoming, by your indiscretion, an object of contempt to your enemies, and of melancholy pity to your friends? But, tell me, sir, does not the constitution, expressly, declare, that inferior subordinate courts must be established, and that the supreme court shall have appellate jurisdiction, only, in disputes between individuals? How, then, can the supreme court determine disputes of this denomination, unless, they are first instituted in the inferior court? Can the supreme court have, in such cases, original jurisdiction? You will not certainly, assert it. To deter-



mine them, then, are not inferior courts necessary? You will, not certainly, deny it. A moment's calm reflection must convince every unbiassed mind, that the number of inferior courts could, not properly, be adjusted by the constitution. The outlines of the plan could, only, be drawn by the convention, and the filling of them up has, unavoidably, been left to Congress. The constitutions of the different states have, not, ascertained the number of inferior courts, but, have left the arrangement of this matter to their respective legislatures. But, let it be remembered, that Congress, as it will contain the collected wisdom and patriotism of the states, will, in all human probability regulate the right of appeal, in such a manner, as to distribute equal and impartial justice. Let it be remembered, that Congress, in the other cases, will, never make such regulations, which would oppress an *individual citizen*, to benefit an *individual foreigner*. Let it be remembered, also, that you, Mr. Lee, have acted, in this instance, inconsistent with that decent regard to candor, which every man, who writes for the information of the public, should observe.

You say "In this congressional legislature a bare majority of votes can enact commercial laws, so that the representatives of the seven northern states, as they will have a majority, can by law, create the most oppressive monopoly upon the five southern states, whose circumstances, and productions are, essentially, different from theirs, although not a single man of these voters are the representatives of, or amenable to, the people of the southern states." Here you begin to throw off the mask, and imprudently avow your sentiments. What does your argument tend to prove? It strikes at the very *vital principle* of the confederation, and proclaims in the strongest terms, "we ought to separate." The seven northern states, you say, differ from the southern in circumstances and productions, and their representatives are not amenable to the southern states. Is there, sir, a greater disparity, between the interest of Massachusetts and Virginia, than there is, between Norfolk and Princess Anne counties, and Amherst and Buckingham? Certainly not—And would you, persuade us, that we ought to dissolve the state government, because in the assembly, composed of the representatives of these counties, a bare majority might adopt a measure, which would be prejudicial to some one or other of the counties? *Indiscreet* as you are, you would not presume to give such advice. Experience has proved to us, that a brotherly forbearance, which cannot be interrupted by your licentious pen, will, effectually, prevent the adoption of such measures. A little calm reflection would have shown you, sir, that it is the general rule in Congress for a majority to decide.<sup>4</sup> Why, then, ought *that* rule to be changed in this

instance? Will you reply, that if it was so changed, the southern states would, never, agree to such general commercial regulations, which the interests of America would require. Have not the northern states trusted their dearest interests to the vote of a majority, and can we suppose, that they would agree, that ours should be secured by making the votes of two-thirds necessary? The implacable resentment, which, from personal motives, you bear to the northern states, has made you, very imprudently, pull off the mask, and discover your secret wishes. Your enmity, to the northern states, has made you an enemy to the union. To gratify your resentment against them, you would wantonly sacrifice the happiness of your native country. But, what are the evils which you so feelingly dread? Why, should these regulations take place the northern states might oblige us to pay more for the carriage of our commodities, than we do now. And, pray! sir, admitting this to be true, is it not better, that the northern states should engross our carrying trade, than the English? No—Your overweening attachment to this nation will, never, reconcile you to this measure. Is not the policy of this and of every other country the same? Is it not the policy of every wise government to impose duties on particular articles, when they want to encourage the manufacture of them at home? The duties, it is true, will make us pay, for some time, a greater price for those articles, than we should otherwise, have done. But will not they give such strength to our own manufactures, that they will be enabled, in a short time, entirely to supply the home demand, and in the, end, upon much better terms, than we, before, got them?

Is there any commercial country in the world, in which similar regulations have not been adopted? At present, from the want of a commercial head, all nations are permitted to become our carriers. They supply us only, with such commodities, as they please, and take from us, only such, as they cannot do without. They will, not, even permit us to carry to their markets our own produce.<sup>5</sup> Thus are we trading for the benefit of all nations, and to our own prejudice. But, according to your wise policy, we ought to remain in this situation, and for what! Because, although great benefit would be derived, from such commercial regulations, to America, in general, yet, as particular parts will gain more, than others, you will not consent to it. Do you not suppose, sir, that when Cromwell passed his navigation act,<sup>6</sup> the price of freight was raised, and particular parts of the kingdom were more benefited by it, than others? Yet, the wealth, prosperity, and extensive commerce of the whole nation are, justly, attributed to that act. America is one country, and all her sons are brethren. He, who is not strongly im-

pressed with these sentiments, whatever specious pretences he may assume, ought to be considered, as an enemy to both.

I shall, now, sir, take the liberty to examine one or two of the amendments, which you have, with peculiar confidence, recommended. I flatter myself, I have made it appear, that many of the objections, which you have advanced against the foederal constitution, exist, only, in your own visionary brain. I, equally, hope to make it appear, that the amendments, which you have, so majestically, proposed, would be, really, defects, and could, only, be engendered by such a mind, as yours.

“Let the new constitution,” you say, “be so amended, as to admit the appointment of a privy council, to consist of eleven members, chosen by the president, but responsible for their advice, they may give.”<sup>7</sup> A council, sir, in this country is altogether unnecessary, because the president is amenable himself for his conduct, and liable, like any other public officer, to be impeached for bad a[d]ministration. In England the case is different. The privy council, and the ministers of the King, are, alone, liable for the public measures, which may be, unconstitutionally, pursued—Because, it is a principle of their government, that the King *can do no wrong*, and is not accountable to *any tribunal* for his conduct. The constitution has, therefore, wisely provided, that the *servants* shall be responsible for the misconduct of the *King*. But, as the reason of that regulation does, not, operate in the foederal constitution, the regulation itself was unnecessary. For, where is the necessity of giving to the president a council, when the president, in his own person, is liable to punishment? But, if this was not the case, do you really think, that a council, appointed by the president, and removable at his pleasure, would be any check on his conduct? Would it not, rather tend to increase his influence, and serve, as a cloak, to screen him from just punishment? Perhaps, your object was, only to multiply the number of places, and to make the probability of your occupying one, the greater. You have, hitherto, been disappointed in many attempts to get into office, and believe me, *sir*, the more extended the field is, from which the election is to be made, the less chance you will have of succeeding.

(*To be continued.*)

1. For the publication and circulation of “Cassius,” a reply to Richard Henry Lee’s letter of 16 October to Edmund Randolph (RCS:Va., 59–67), see “Cassius” I, 2 April (above).

2. Lee was a delegate to Congress from November 1784 through October 1787, serving as president in 1784–85.

3. See Blackstone, *Commentaries*, Book I, chapter I, 129.

4. Article IX of the Articles of Confederation required the assent of nine states to exercise Congress' most important powers; otherwise a majority-vote was required.

5. For example, in 1783 Great Britain adopted orders-in-council providing that certain American products be imported into the British West Indies only in British vessels. The same year Spain ended the special privileges that Americans had been given during the Revolution in Havana and New Orleans, and in 1784 it prohibited Americans from navigating the Mississippi River within Spanish territory. In 1784 and 1785 France barred some American products from its West Indian islands of Martinique, Guadeloupe, and Haiti.

6. "Cassius" probably refers to the Navigation Act of 1651 which provided that goods imported into England or her colonies had to be in English-owned-vessels, with the captain and a majority of the crew being English.

7. This was one of the amendments to the Constitution that Lee recommended in his 16 October letter to Edmund Randolph. (See RCS:Va., 65-66.)

## **A Freeholder**

### **Virginia Independent Chronicle, 9 April (Extraordinary)**

FOR THE INDEPENDENT CHRONICLE.

An honest Freeholder, Farmer or Planter, whose education has not furnished him with the means of examining with any accuracy the propriety or impropriety of adopting, or rejecting the plan of the new constitution, will I suppose consult such of his friends as understand the subject, and can explain it to him—But should they tell him that it ought not to be received without amendments; and that there is mischief lurking in it—he would do well to consider whether such friends are as well acquainted with all the circumstances of the case, as the great and enlightened men who formed that plan; and whether it is not much more probable that these friends are mistaken, than that the members of the late grand convention should have ignorantly contrived a foolish plan, or have basely framed a mischievous one, with design to enslave their country—He would do well to consider that the men who composed that convention were not only of the first abilities, but of firm and well known attachment to the interests of the United States, and were as incapable of contriving a weak plan, as of meditating a wicked design, and that if the opinions of any men in the world may be relied on, theirs may on the present occasion—Let such freeholder then conclude that his friend either is incapable of judging properly respecting the constitution; or has adopted some notions of government which cannot fairly be applied to the case before him; or, is so filled with republican jealousies, as to view it in the most unfavorable light, and with unreasonable suspicions. The first conclusion will generally be found to be true; the second is actually the case of the most sensible and dispassionate objectors to the constitution; and the last supposition is undoubtedly true with respect to

all those who object with warmth and violence, and insist loudly on amendments. The first is generally true, because not one objector in twenty does understand the great question. The second, is the case of sensible objectors: for they having read a great deal about government, and of ancient and modern republics, and confederacies, apply the judgment they have formed from books to the case of the United States now before them; which I say will not apply, for this is a new case, without its resemblance in history, and unknown to the theorists, of ancient or modern times:—and what may be objectionable in this constitution if it were intended for a single state may be indispensibly necessary, when applied to 13, perhaps 30, states, which are to be sovereign and independent as to their constitution, bill of rights, and municipal laws, and as to every purpose which cannot interfere with the sovereignty and general good of the United States; and yet, are to be held together by a government which will make them *one* in interest, strength and glory; by a government, which must relieve them in case of future wars from the many difficulties they laboured under in the last; by something more effectual than mere confederacies and alliances. I say, that what may be objectionable in this constitution, if it were intended for a single state, may be indispensibly necessary, when applied to such a complicated and delicate government as that of the United States. For instance, it would according to the opinions of writers on government be improper to suffer the legislature to have any share in the executive; it is said, they should be separate and distinct: and therefore the senate which is one branch of the legislature in our new plan of government as in our state governments ought not to be the advisers of the president, in the one case, any more than in the other—but this objection will appear to be inapplicable to the case of the senate of the United States, for it is widely different from the case of the senate of a single state; not only because the senate of Congress equally represents each individual state in the union, each of which is equally interested in the just execution of the laws, as well as in the wise and equal formation of them; and in forming treaties and establishing alliances; and therefore the senate ought not only to have a share in framing the laws, and making treaties, but also in superintending the execution of them: I say that the senate should have this power not only for these reasons, but also because they being elected by the Assemblies of the several states represent them and their interests directly, and are accountable to them, and liable to be instructed by them—whereas in the case of a single state senate, which is elected by the freeholders, there is no body of men authorised, or qualified, to instruct, advise or controul them, if they were intrusted

with those powers; which indeed there can be no occasion for; and if there were occasion for such powers, they could not safely be lodged in hands chosen as our senates are, and without any check from a body capable of judging of their conduct, and diverting it upon important occasions—so that in this instance it may be plainly seen that objections which are founded on reasoning which is applicable to other governments, can have no weight when applied to the foederal plan of government proposed by the late convention. And this is not the only instance which may be produced to show this—for it is a good observation when applied to other governments, that the legislative should not only be separate and distinct from the executive, but from the judiciary department too—yet this rule will not hold good, when applied to the senate's being judges in cases of impeachments—for they, being cases in which the honor and welfare of every state is equally concerned, are properly triable in a court where every state is equally represented. And as judges, above all men, should be free from prejudice or partiality; should have a thorough knowledge of the law, and every possible inducement to judge uprightly, what other men in the United States can be so likely to answer this description of judges as the senate? Where can a more enlightened body of men be found—of an higher sense of honor; where men better acquainted with the laws by which they are to judge; or with the fact and persons on whom they are to pass sentence, than the senate? Instead of being tried by men of the same state, the offender will be tried by two of each state; by judges who, as they had a share in framing the laws must understand them; who as they are entrusted to execute them, must be anxious to bring the violators of them to justice; but yet as being entrusted also with the business of judging the offenders against their laws, must feel a delicacy and sense of honor which will impel them to judge with the utmost integrity and impartiality. Even when they sit in judgment on one of their own body, may I not ask where else could judges be found so capable of judging of the fact and of the general conduct and disposition of the person impeached? And if we think it an excellency in criminal cases, to let the prisoner be tried by the jury of his neighbours, who surely would be as likely to be partial to, or prejudiced against the prisoner as the senate possibly can be with respect to one of their members, where is the impropriety of this mode of trial? Where indeed can any other be found approaching nearer to the trial by jury, yet having evident advantages over juries? Excellent however as this mode of trial is, in the case of impeachments in the name of the United States, there would be no propriety in making the senate of Virginia judges in such cases in Virginia, for they are not elected with so much

judgment, nor are they bound by such ties of honor as the senate of the United States; nor is it of so much consequence that they should be so free from all influence, nor do they come equally two and two from every county from whence prisoners may be brought for trial, as *those* do, from their respective states—so that here is another instance in which an objection may be good against a similar circumstance in a single government, and yet be utterly void of weight when applied to that by which the United States should be regulated. It is well observed too that it is impolitic to entrust any body of men, and much less an individual, with great powers for any length of time; and therefore many good men have been alarmed at the length of time for which the senate and president are elected—but when it is considered that the former might be too dependent on the will and fluctuating opinions of annual Assemblies, if they were not elected for a time which would not only give them experience, but confidence to exercise their own judgments, when evidently in the right, without fear of being recalled by their constituents; and that the duration of their powers, and of the president's, may be essential to give stability to government, and uniformity to the execution of the laws; as well as to give foreign ministers the necessary confidence in government, when they negotiate treaties, on which the welfare, very possibly the existence of the states may depend; I say when this is considered, it must be acknowledged, that here is another instance, in which a general rule of politicians, and statesmen, will not apply to the plan of the fœderal constitution—In short, let the freeholder remember the old saying that there is no general rule without an exception, and let him have so good an opinion of the members of the convention as to suppose that they considered well the plan before them, and saw where the general rules could be applied and where they failed—but to return to the third class of objectors which we meet with, it was observed, is composed of those who are filled with republican jealousies, viewing the constitution in the most unfavorable light; but let the honest freeholder make himself easy, these jealous republicans will soon acknowledge that their fears were groundless, and that what at first alarmed them, is their only hope and confidence, the only means of securing them against the dangers of monarchy, or aristocracy. They will see when they will look calmly and without prejudice into the constitution, that though it furnishes government in cases of emergency with all the resources of the energetic government of Britain; it is free from its defects. We shall then have the energy secrecy and dispatch of monarchy, without its expence, tyranny and corruption; the wisdom of an aristocracy, without its insolence, and the freedom of a democracy, without its instability,

and licentiousness; and they will see, that the bodies which represent these several forms, of government, are all elected by the people directly, or by their deputies; so as to be consistent with pure democratical principles; and wisely calculated to preserve the interests of the people to [the] latest ages.—These zealous republicans will find on calm examination of the new constitution that it not only by an express article guarantees to them their republican forms of government, but it cuts off all pretence from the friends of monarchy and aristocracy, of aiming at the introduction of either of those forms of government, by giving us all that is desirable in them, without the inconveniencies which attend them; and they will see, that the president, being elected by the people, and limited by their direct representatives in Congress, and checked by their Assemblies representatives, the senate of Congress; liable to be left out after four years; and to be impeached and removed at any time; or to be indicted if the case should require it, can by no means be compared to Kings, even the most limited we read of in history.—He will see too, that the senate, being elected by our republican Assemblies, watched by their jealous eyes; and incapable of acting without the concurrence of the house of representatives, and the president, all of whom are the representatives of the people, and accountable to them, cannot (especially too when prevented from enjoying hereditary honors and titles of nobility) even mimic the aristocrats which insult freedom in Europe.—He will then recollect that republican principles are too well established amongst us; that a love of liberty has taken too deep root in the hearts of Americans, as is evident from the jealous eye with which this constitution is viewed, even to give the least glimpse of hope to the most ambitious, and intrepid tyrant that ever lived, to make an attempt against the sacred rights of the people. He will indeed then laugh at the idea of a tyrant's existing in America, till Americans shall have lost their senses and their virtue; and then indeed, they will find tyrants, and become their slaves, as they will justly deserve to be, in spite of any precautions which can be taken now to prevent it.—He will indeed laugh at all his former suspicions, and had they not proceeded from a laudable motive, he would be almost ashamed, whenever he should reflect on some of them, such for instance as his suspicion, that, because trial by juries in criminal matters is expressly secured to the states by the constitution, it took that mode of trial away in civil cases, by saying nothing about such cases; and that the freedom of the press was endangered because nothing was said about presses—for he will then see that the convention had nothing to do with juries or presses, their business being to form a plan of government suited to the genius and circumstances of the



United States, and not to presume to prescribe a bill of rights to a free people; who by no means intended that the convention should say what their rights are, or should be; though they are willing that such of them should be abridged, as might otherwise interfere with the general interests of the United States—he will then be candid enough to suppose, that, as some great lawyers have been of opinion that juries are not the best mode of trial in civil cases, and the time may come when some states may wish to abolish juries, the convention ought to have credit for securing the use of them at all events in criminal cases—and will think it strange, that he ever suspected, that the undoubted rights of freemen, and the bulwark of their liberty could be taken from them by the forced construction which had been put on a few words, and by an unaccountable implication from the omission of others in the place of the constitution.

Even the article respecting direct taxes will appear on cool reflection to be not only necessary, but just, and consistent with the principles of taxation in a single state—for it is evident, that duties and taxes must be laid, for the support of the general government, and payment of the debt incurred by the states in their struggle for their liberties; and it is but just, and right, that duties and taxes, for these purposes should be equally born and uniformly laid throughout the states; but this can be done by no other means than that proposed by the constitution; that is by Congress, and Congress being a fair representation of the states, may with as much propriety tax them, for such purposes; as the Assembly of Virginia which is composed of delegates from different counties may tax Gloucester and York—these two counties for instance being represented in Assembly, have as much right to complain that, Hampshire and Augusta have a share in taxing them; as Virginia has to complain that Massachusetts and New-Hampshire will have a share in taxing her by their votes in Congress. The truth is, these counties have more reason to complain; for the Assembly is not bound as Congress is, to lay all its duties and taxes so as to be uniform throughout the different counties—so far from it, that in many instances they have been laid most unequally, and I may add unjustly; witness the tax on young negroes; on doctors, lawyers, clerks, wheel carriages, and on lots in town; the duty on tobacco exported, and on certain articles imported—So that the article respecting taxes, will be found not only necessary, but just; and indeed a desirable thing in this state. Nor will our republican friend be alarmed then at the idea of excises, for he will see, that although the power to raise the necessary sums of money for all possible exigencies of the states, ought to be adequate to the ends for which it is given; yet it does not follow that

that power will actually be exerted; or if exerted, that it will not be in the mildest manner, as for instance it is at present in England, where now no one complains of the excisemen; and he will recollect that we have had excisemen in fact calling on us for the quantity of our plate, our money, our cattle, horses, &c. by virtue of an act of Assembly;<sup>1</sup> and will see that such officers would be as harmless, at least, when acting under the authority of Congress, as when authorised by our Assemblies—in short all his fears will subside—he will no longer be uneasy at the thoughts of the laws of Congress being superior to the laws of his state; for he will see, that were this not to be the case, they might as well not make laws at all, and Congress must remain the same helpless body it is now, and the states be forever jarring with, and rivalling one another without commerce, or credit; the means of defence at home, or of procuring it abroad—indeed he must acknowledge, even in the height of his jealous frenzy, that if Congress can not enforce the observance of her treaties, no nation will treat with her, and that the situation of America if ever involved in a war would then be truly awful—And as to the power of our assemblies being abridged, he will confess that their power to do every possible good remains, and the power of doing mischief alone is taken from them; that they may make wise and good laws for the regular administration of justice, the preservation of order, the encouragement of commerce, agriculture, manufactures, arts and sciences; that they may watch over the conduct of Congress, and instruct the senate who are their representatives that in fact they are only restrained from making paper a tender for debts of gold and silver; from interfering in sacred contracts between man and man; from laying improper and partial duties on the produce of the farmers and planters labors, and from counteracting the general interest of the United States—His fears on this head will surely vanish when he reflects that the laws of Congress, which too will be framed by a much wiser body of men than any Assembly of the states, must be made pursuant to the foederal constitution; which in fact expressly declares, in the preamble, that they must be calculated to “*form a more perfect union, establish justice, insure domestic tranquility, provide for the common defence, promote the general welfare, and secure the blessings of liberty to us and our posterity.*” Even the frantic enthusiast with his heated imagination, cannot fancy, after considering this, that religious liberty is endangered, by this constitution; and that Congress will undertake to form a religious establishment; that is, will take a step most likely of all others to *disturb the union; to destroy justice, excite civil commotions and religious feuds, and to annihilate religious liberty,* which too they must know is almost the only kind of liberty that is

valued by a great part of their constituents—let not then the honest freeholder, farmer, or planter, be at all alarmed at the objections which they may hear some of their friends make to the new constitution—let them rest assured, that there is not one objection made or can be made which is not either founded on a misconstruction of the words of the constitution, or, on principles misapplied; or, if founded on truth, which may not be removed by Congress, or by another general convention—for if they be objections of real weight, and general concern, the constitution itself points out a regular and proper remedy—for instance, some of the defects which are said by some objectors to be in the general establishment of the foederal courts can, and no doubt will be corrected by Congress—But it has been insisted on by some, that this state ought not to consent to be bound by the constitution, unless it be altered so as to be agreeable to the wishes of our state convention—this seems at first view rational enough; and if so, the same opinion ought to prevail in the other 12 states—and the whole 13 ought to set to work, to revise the constitution, and propose their amendments in their respective conventions, and transmit them to another general convention of the states; which, if it could ever digest them, and reconcile them so as to form out of them another *plan* of a foederal constitution, must send *it* to their respective Assemblies, that they may call the conventions of their states to examine this 2d plan; and if approved, to hand it on again to another general convention for its ratification. But as we cannot find any two of the objectors agreeing in objections, and have not yet seen a rational plan of amendments, we may fairly conclude that several years would be lost in a fruitless attempt to form a better plan—this shews the propriety of their arguments who insist that were the constitution as imperfect as some have pretended, yet it would be wise to receive it for the sake of the many excellencies it contains—it would be imprudent in the highest degree even in that case, to insist upon amendments now, for even supposing all that the objectors say be true, yet we should risk the loss of the certain and immediate good, which the constitution offers, merely for an uncertain chance of avoiding distant evils—The immediate good which it offers may be briefly stated thus—it holds out the fairest prospect of binding together by indissoluble ties the United States; of reviving commerce; of restoring confidence between man and man, state and state, and between our allies and the United States; of providing for the common defence; and of securing to each state its republican form of government. By consolidating the union of the states they may with truth be called the United States, at present they are disunited, jarring, jealous rivals; their national faith

violated, their commerce ruined; incapable of forming treaties, weak and helpless, and ready to fall a prey to any invader. Besides, this constitution adds proper checks and balances to the power of Congress, which it now wants; and whilst it does this, it wisely extends that power to all the purposes of a general, uniform, firm and good government. Whilst it gives an energy and dignity to the supreme legislative and executive powers, of which energy and dignity the present Congress have not even the shadow, it wisely gives the people their proper share and weight in government; for they are to elect the members of the house of representatives by their own direct votes; the president by the votes of their deputies chosen for that express purpose; and the senate by their Delegates in Assembly; and here by the bye let me remark that this is giving such weight and dignity to the freeholders, and so perfectly secure to them all that is desirable in a popular government; that they must be blind, or mad if they do not see it, and lay hold of it, as of the last consequence to them—they surely will never be quibbled out of this advantage, by the refined arguments of the objectors to the constitution. Nor will the farmer and planter attend to such quibblers and hesitate to embrace the constitution which will secure them against tenders of paper money as payment for their crops; and against heavy and unequal duties on them when exported—a constitution, which will introduce a full and free commercial intercourse with the sister states; and which will no doubt put our foreign commerce on a respectable footing. Happily the constitution requires no amendment; for, if it did, we have no time to lose in speculations on amendments, as “all government in these states hangs by a thread.”<sup>2</sup>—The confederation has been declared by 12 state Assemblies to be insufficient for the purposes of government; and the plan of the new constitution has been declared by 12 state conventions to be the only scheme of government which can be adapted to our present situation and circumstances; and 7 states have already actually embraced it as such. What would be the situation of Virginia then, should she undertake to make amendments, and endeavor to bring the states over to her opinions respecting them? Is she in a condition to make such an experiment? granting that her situation should not grow worse before she could prevail on the other states to come into her schemes of amendment; that is that she should not suffer more for want of commerce and its attendant money; for want of confidence between man and man; and for want of public faith, and stability in government; that she should not suffer more than she has suffered, by unwise regulations of commerce; by oppressive and unequal taxes; by violating the public faith repeatedly pledged to the officers and

soldiers of the late army, and to the lenders of money in the hour of her distress; by non-compliance with requisitions of Congress—by rivalry with, and jealousy of, sister states, and by the imprudent conduct of the inhabitants of Kentucky towards the Spaniards<sup>3</sup>—I say granting that the situation of Virginia in these respects should only remain as it is, till the states or nine of them should agree in amendments, who would wish to remain in such a despicable, helpless, and critical situation, even one year, for the mere chance of procuring amendments, which after all in the opinion of the wisest and best men in the states would not deserve that name, but would really make the constitution worse? If the states should not separate, and form, as Mr. Henry, it is said, has hinted they might, two or three confederacies, which would inevitably produce civil wars without end;<sup>4</sup> yet, will France, Spain, Holland and England, to whom we are so much indebted, wait any longer without making reprisals, if they see no better prospect of payment than we could show them were we to refuse the new constitution? May not these nations, provoked by our unworthy treatment of them, and at the same time invited, and tempted by our distracted and defenceless situation, resolved to divide the states amongst them, making such a partition as they are well acquainted with in Europe? It is undoubtedly their interest to do so—and it is certain they can do it with ease. It is their interest, because, they would not only acquire an additional territory; and increase their naval resources; but they would cut off at a single stroke the head of their formidable rival—of a rival, which the tyrants of Europe look upon as about to eclipse their glory, diminish the number of their subjects in that quarter of the globe, and rob them totally of them in this, annihilating their sovereignty in America. It is certainly the interest of the powers of Europe to suppress that spirit of liberty which their subjects begin to imbibe from America, where it has been the glorious instrument of a revolution which they have heard of with admiration and envy. The partition of America would undoubtedly establish the monarchs of Europe on their thrones, and deter any nation from ever making another attempt to bring about a revolution. That they could make the partition with ease must be evident to any one who will consider the weak, helpless condition of America—her incapacity to procure allies; to borrow money; or to make it again to any good purpose, after cheating so many soldiers and citizens with that made in the last war—or indeed, if it could be even seen that the states would be more honest, more attentive to their soldiers, and citizens, it is not probable, that there would be any hearty concurrence in measures which would be attended with great hazard; much more dangerous than in the war with Britain,

and which should they be crowned with success, and in the same period of time, it is highly probable would lead the most virtuous patriots through the same round of distresses and mortifications as the heroes of the late war have gone through; and the states be at last, perhaps, as much involved in difficulties and disputes as they are at present; so that there could be little or no hopes of success in our opposition, and indeed when the immense resources of the powers which are interested in the division of America are considered, there can be no doubt that the division might be made in one or two campaigns—one half of the very fleets and armies which those powers keep up in constant pay as guards against each other, would with ease reduce these unhappy states, which would be said to have justly deserved that fate—it would be said that they were abandoned by Heaven for their ingratitude, irreligion, and breaches of public faith—But let us dwell no longer on a supposition so painful—painful indeed must be the supposition that these states will be infatuated by Heaven, to reject the constitution, that they may be more compleatly chastened for their sins. Let us rather suppose, that the honest freeholders, farmers, and planters will embrace it as the gift of Heaven—that they who cannot judge of the minutiae of government will see enough of the great and evident advantages held out to them by the new constitution to embrace it at all events; and that they who can reason and are acquainted with the nature of governments will soon see how wisely the plan was framed by the convention to suit the peculiar circumstances, and the present, and future, probable situation of the United States; that the jealous republican objectors will acknowledge, that their fears were ill-grounded; promising that they will heartily concur in support of the constitution. Let us rather suppose this; and that the consequence will immediately be, a flourishing commerce, a great increase of wealth and population; an equality and lessening of internal taxes, confidence between citizen and citizen, state and state, and between these states and their allies, and perfect security against foreign invasions; not only on account of the united strength of the states; but on account of their credit abroad, and the resources they would have in alliances already formed, and which may be formed; in short the consequence would be, that the United States would soon flourish in arts, and commerce, and become the happiest nation under Heaven—That they may become so, is not only the fervent prayer; but that they will be so, if the new constitution be adopted, is the firm belief of the author of the foregoing reflections, who is

A FREEHOLDER.

March 3, 1788.

1. "A Freeholder" refers to a comprehensive act passed in January 1778 (Hening, IX, 349-68). For the problems that arose in enforcing the act, see Robert A. Becker, *Revolution, Reform, and Politics of American Taxation, 1763-1783* (Baton Rouge, La., 1980), 196-98; and for a list of the numerous taxes paid by Virginians in 1787, see W. F. Dodd, "The Effect of the Adoption of the Constitution upon the Finances of Virginia," *Virginia Magazine of History and Biography*, X (1903), 362-64.

2. This metaphor was a popular one. In a 14 December letter that was printed and widely circulated, George Washington stated that "General Government is now *suspended by a Thread*" (*Maryland Journal*, 1 January, RCS:Va., 277. See also Washington to Patrick Henry et al., 24 September, *ibid.*, 15.). On 13 February "A Planter" noted in the *Virginia Independent Chronicle*, the same newspaper that published "A Freeholder," that "the fate of America hangs, as it were by a slender thread" (Albemarle County Election, II above).

3. "A Freeholder" refers to the hostility of Kentuckians toward Spain which had closed the navigation of the Mississippi River to Americans in 1784. Since that time, there had been threats that the Kentuckians would "drive the Spaniards from the settlements at the mouth of the Mississippi," especially the port of New Orleans. (For a discussion of the impact of the closing of the Mississippi to navigation, see CC:46.)

4. For more on Henry's alleged support for the idea of separate confederacies, see RCS:Va., 197, 257, 289, 359.

### James Madison to Edmund Randolph Orange, 10 April<sup>1</sup>

My dear friend

Since I got home which was on the day preceding our election, I have received your favor of the 29th. of Feby. which did not reach New York before I had left it.

I view the amendments of Massachussetts pretty nearly in the same light that you do. They were meant for the people at large, not for the minority in the Convention. The latter were not affected by them, their objections being levelled against the very essence of the proposed Government. I do not see that the 2d. amendment, if I understand its scope, can be more exceptionable to the S. Sts. than the others. I take it to mean that the number of Reps. shall be limited to 200, who will be apportioned from time to time according to a census; not that the apportionment first made when the Reps. amount to that number shall be perpetual.<sup>2</sup> The 9th. amendment I have understood was made a very serious point of by S. Adams.<sup>3</sup>

I do not know of any thing in the new Constitution that can change the obligations of the public with regard to the old money. The principle on which it is to be settled, seems to be equally in the power of that as of the existing one. The claim of the Indiana Company can not I should suppose be any more validated by the new System, than that of all the creditors and others who have been aggr[ev]ed by unjust laws.<sup>4</sup> You do not mention what part of the Constitution, could give colour to such a doctrine. The condemnation of retrospective laws, if

that be the part, does not appear to me, to admit on any principle of such a retrospective construction. As to the religious test, I should conceive that it can imply at most nothing more than that without that exception a power would have been given to impose an oath involving a religious test as a qualification for office. The constitution of necessary offices being given to the Congress, the proper qualifications seem to be evidently involved. I think too there are several other satisfactory points of view in which the exception might be placed.

I shall be extremely happy to see a coalition among all the real federalists. Recommendatory alterations are the only ground that occurs to me. A conditional ratification or a second convention appears to me utterly irreconcilable in the present state of things with the dictates of prudence and safety. I am confirmed, by a comparative view of the publications on the subject, and still more of the debates in the several conventions, that a second experiment would be either wholly abortive, or would end in something much more remote from your ideas and those of others who wish a salutary Government, than the plan now before the public. It is to be considered also that besides the local & personal pride that wd. stand in the way, it could not be a very easy matter to bring about a reconsideration and rescision of what has certainly have been done in six and probably eight States, and in several of those by unanimous votes. Add to all this the extreme facility with which those who secretly aim at disunion, (and there are probably some such in most if not all the States) will be able to carry on their schemes, under the mask of contending for alterations popular in some places and known to be inadmissible in others. Every danger of this sort might be justly dreaded from such men as this State & N. York only could furnish, playing for such a purpose, into each others hands. The declaration of H—y mentioned in your letter is a proof to me that desperate measures will be his game. If Report does not more than usually exaggerate, M also is ripening fast for going every length. His licentiousness of animadversion, it is said, no longer spares even the *moderate opponents* of the Constitution. Yrs. affectly

1. RC, Madison Papers, DLC. Madison marked this letter "*Private*" on the address page. It answers Randolph's letter of 29 February, in which he discussed the Massachusetts Convention's recommendatory amendments (RCS:Va., 436–37. For the text of the amendments, see CC:508. See also notes 2 and 3, below.). In turn, Randolph answered Madison on 17 April (below).

2. The second amendment reads: "That there shall be one representative to every thirty thousand persons, according to the census mentioned in the constitution, until the whole number of the representatives amounts to two hundred" (CC:508).

3. The ninth amendment reads: "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" (CC:508).



4. In 1768 the Indiana Company (based in Pennsylvania and New Jersey) bought land in present-day West Virginia from the Iroquois. Because this land fell within the boundaries set by Virginia's colonial charter of 1609, the Virginia legislature disputed the company's land claim, and in 1779 it voided the claim, despite the efforts of Randolph who spoke on behalf of the company. After the state Convention adjourned in late June 1788, the company pressed its claim before the state legislature and then the new Supreme Court of the United States. Ratification of the Eleventh Amendment to the U.S. Constitution in 1798 effectively ended the company's campaign for redress (Rutland, *Madison*, X, 543n-44n; and RCS:Va., 490n).

**James Madison to George Washington  
Orange, 10 April<sup>1</sup>**

Having seen a part only of the names returned for the Convention, and being unacquainted with the political characters of many of them, I am a very incompetent prophet of the fate of the Constitution. My hopes however are much encouraged by my present conjectures. Those who have more data for their calculations than I have, augur a flattering issue to the deliberations of June. I find that Col: Nicholas, who is among the best judges, thinks on the whole, that a majority in the Convention will be on the list of fœderalists; but very properly takes into view the turn that may be given to the event by the weight of Kentucky if thrown into the wrong scale, and by the proceedings of Maryland and South Carolina, if they should terminate in either a rejection or postponement of the question.<sup>2</sup> The impression on Kentucky, like that on the rest of the State was at first answerable to our wishes: but, at ~~present~~ as elsewhere, the torch of discord has been thrown in and has found the materials but too inflammable. I have written several letters since my arrival, to correspondents in that district, with a view to counteract antifederal machinations. I have little expectation however that they will have much effect, unless the communications that may go from Mr. Brown in Congress,<sup>3</sup> should happen to breathe the same spirit: and I am not without apprehensions that his mind may have taken an unlucky tincture from the difficulties thrown in the way of the separation of the district,<sup>4</sup> as well as from some antecedent proceedings of Congress. I have taken the liberty of writing also to a friend in South Carolina<sup>5</sup> on the critical importance of a right decision there to a favorable one here. The inclosed letter which I leave unsealed will shew you that I am doing the same with respect to Maryland. Will you be so good as to put a wafer in it and to send it to the post office for George Town, or to change the address to Annapolis, if you should have reason to conclude that Mr. Carrol will be there? I have written a similar letter to Doctr. McHenry.<sup>6</sup> The difference between even a postponement and adoption in Maryland,

may in the nice balance of parties here, possibly give a fatal advantage to that which opposes the Constitution.

I have done nothing yet in preparing answers to the queries. As facts are to be ascertained as well as opinions formed, delay will be of course, counted upon.<sup>7</sup>

1. RC, Washington Papers, DLC.
2. See Nicholas to Madison, 5 April (above).
3. *Ibid.*, note 7 (above).
4. For Congress and Kentucky statehood, see RCS:Va., 330–31, note 2.
5. Madison's "friend" has not been identified. Madison sent this letter to Cyrus Griffin in New York City who, on 28 April, forwarded it to Charleston, S.C. (below).
6. Neither the letter to Daniel Carroll nor the one to James McHenry has been located. Carroll replied to Madison on 28 April, indicating that the Maryland Convention had ratified the Constitution 63 to 11 and that "No amendments will be propos[e]d even in the Constitution manner" (Rutland, *Madison*, XI, 30–31). On 28 May Carroll expanded upon his reply in one letter and in another sent Madison the address of the Maryland Convention's minority (*ibid.*, 62–67).
7. On 2 March the Comte de Moustier, France's minister plenipotentiary to the United States, wrote to Madison, enclosing a list of eight questions on Virginia's commercial relations with France and the French West Indies. Moustier also wrote to Washington asking similar questions. (Madison dropped this letter off at Mount Vernon in mid-March.) Madison answered Moustier on 30 October (Rutland, *Madison*, X, 551–52; XI, 324–28).

### **James Monroe to Thomas Jefferson Richmond, 10 April (excerpt)<sup>1</sup>**

... The Convention of this State is to meet in June to take up the rept. from Phila.—The people seem much agetated with this subject in every part of the State. The principal partizans on both sides are elected. Few men of any distinction have fail'd taking their part. Six States have adopted it, N. Hampshire the 7th. that took the subject up adjourned untill late in June with a view it is presum'd, to await the decision of those States who postpon'd their meeting to the latest day as Virga. N. Yk. & No. Carolina, and from that circumstance suppos'd least friendly to it. The event of this business is altogether uncertain, as to its passage thro the union. That it will no where be rejected admits of little doubt, and that it will ultimately, perhaps in 2. or three years, terminate, in some wise and happy establishment for our country, is what we have good reason to expect. I have it not in my power at present to commit to cypher any comments on this plan but will very soon, I mean concisely as to its organization and powers: nor to give you the arrangment of characters on either side, with us. I write by Colo. Carrington & he leaves this immediately.<sup>2</sup> It will give me infinite pleasure to hear from you occasionally—My county<sup>3</sup> has plac'd me among those who are to decide on this question; I shall be

able to give you a view of its progress that may be interesting to you. . . .

1. RC, Jefferson Papers, DLC. Printed: Boyd, XIII, 49–50; and Hamilton, *Monroe*, I, 181–84. In a part of the letter not printed here, Monroe described the legislature's court reform and apologized to Jefferson for not having written him more often.
2. Edward Carrington was on his way to attend Congress in New York City.
3. Spotsylvania.

**Olney Winsor to Mrs. Olney Winsor**  
**Alexandria, 10, 17 April (excerpts)<sup>1</sup>**

. . . The unsettled State of Gover[n]ment and Commerce has much perplexed the people engaged in business, in all the Union—I have had, what I call, a large share—if we do not get a fixed and stable Government, perhaps the worst is to come—but I will not anticipate evil. . . .

[17 April] . . . Inclosed you will receive a list of the several Counties in this State, & part they have taken in choosing Delegates to act on the Constitution in the State Convention<sup>2</sup>—I congratulate you on the decided majority in its favor—shew the list to Major Keen & such other friends to good order & Government as you think would wish to know how we stand in Virginia, on the grand Question—“to be or not to be” as a Nation “is the Question,” in my opinion.—

1. RC, Miscellaneous Manuscripts, Rhode Island Historical Society. The excerpts printed here are part of a letter that Winsor began on 31 March (RCS:Va., 523–24) and completed on 19 April.

2. See “General Commentaries on the Election of Convention Delegates,” April–June (II above).

**Charles Lee to George Washington**  
**Richmond, 11 April (excerpt)<sup>1</sup>**

. . . What the result will be of retaining your public securities,<sup>2</sup> is a thing of great uncertainty upon which opinions are very different: Unless there be a quiet and peaceable transition from the present american government, into another more powerful and independent of the people, the public debts and even private debts will in my opinion be extinguished by acts of the several Legislatures of the several states. The temper of the people in general, their habits, their interests all combine in producing such an event, and against these, natural justice will make but a feint opposition. If the proposed constitution be agreed to, and the administration be mild, just and wise, if it be so conducted as to engage the affections of the people, the

public securities will appreciate and in a few years perhaps, be of considerable value.

Upon the accession of this commonwealth to the constitution, the happiness of America seems to me to depend & it is distressing to find upon the best information yet had respecting the sentiments of the conventioners that this remains very uncertain. Exclusive of Kentucky, I believe there is a majority of ten or twelve in favor of taking it as it is; except a few characters, the members of most knowledge and abilities and personal influence are also in favor of the constitution:—It seems too to be gaining ground among the people in this part of the country from which last circumstances I have strong hopes that it will be agreed to by our convention. Kentucky is said to be divided but their representatives are as yet unknown here. Governor Randolph is very busy with those who declare themselves undetermined and as his mind does not seem to be yet fixed, I cannot tell how his influence will operate.<sup>3</sup> I am told he has declared if nine states accept it, that he will vote for its adoption.

1. RC, Washington Papers, DLC.

2. On 4 April Washington, in need of cash, wrote to Lee requesting his advice about "what will or is likely to be the final result of my holding the [Continental Loan Office] Certificates which have been given to me for interest of the money I lent to the Public in the day of its distress. I am well apprised," Washington continued, "that these are negotiable *things* and when a person is *obliged* to part with them, he must, as with other commodities at market, take what they will fetch, but the object of my enquiry, is to know, as above, what the final end of them will be if retained in my chest.—Strange indeed it seems—that the Public Offices should take in the original Certificates. Issue new, by a scale of their own—reducing the money as *they* say, to specie value—give warrents for interest accordingly—and then behold! these specie warrents are worth 2/6 in the pound.—To commit them to the flames, or suffer this is a matter of indifference to me.—there can be no Justice where there is such practices.—You will pardon me for dwelling so long upon this subject—It is a matter which does not concern me *alone* but must affect many others" (Washington Papers, DLC).

3. See also Lee to Washington, 14 May (below).

## Maryland Journal, 11 April

### *Antifederal Intelligence.*

*Extract of a Letter from a Gentleman in Fredericksburg, (Virginia) to his Friend in this Town, dated March 30, 1788.*

"Permit me to congratulate you on the *Success* of the *Opponents* to the *new Constitution* in this State—The Elections for Members to the approaching Convention, have been generally decided in favour of the *Enemies* to the new System, and we have every Reason to hope that Virginia will reject a Government by the Adoption of which it is evident, to every impartial Investigator, that the Liberties of America will

be endangered.—Col. MASON is elected for Stafford, Mr. RANDOLPH for Henrico, Mr. HENRY for Prince-Edward; and notwithstanding the Exertions made by the Friends to the proposed Government in this County, J. DAWSON, Esq; was elected by a large Majority—This Gentleman has been decidedly against the New Constitution, and, on the Day of Election, explained its fatal Tendency in so masterly a Manner, that his Countrymen were fully convinced of the impending Danger, consequently were almost unanimous.”

AUDI ALTERAM PARTEM!<sup>1</sup>

*Federal Intelligence.*

*Extract of a Letter from a Gentleman of Distinction in BERKELY (VIRGINIA) to a Gentleman in this State, dated April 3, 1788.*<sup>2</sup>

“With great Pleasure I embrace an Opportunity to acknowledge the Receipt of your obliging Letter with ARISTIDES’ Pamphlet enclosed. I think that not only Maryland, but every State in the Union is under much Obligation to that Gentleman for his masterly Defence of the proposed Constitution; a System of Government which promises the greatest Prosperity and Happiness to the United States, and which alone can save us from the Anarchy and Confusion that threaten to fall upon us.

“Perish the narrow Soul, who, from sordid Views, or personal Animosity, would endeavour to obstruct the Establishment of the Peace and future greatness, not only of the present but succeeding Generations.—I have done all in my little Power to influence those within my Reach to think as I do on this momentous Subject. (Federalists are chosen for all the Counties hereabout for the Convention; and, by a List handed about of all the Elections made in the State,<sup>3</sup> it is said there is a large Majority in favour of the new Constitution. I shrewdly suspect some of the principal antifederal Characters begin to waver, and, to the no small Disappointment of the factious, will vote and act very differently from what those turbulent Gentry expect.”)<sup>4</sup>

1. Translation: “Hear the other side!” (St. Augustine, *De Duabus Animabus*, XIV, ii).

2. This extract of a letter was reprinted in full in the Winchester *Virginia Gazette* on 23 April. The text in angle brackets was reprinted in the *Pennsylvania Mercury* on 17 April and by 3 May was reprinted six more times: Mass. (1), Conn. (1), N.Y. (3), N.J. (1). The author of this letter was General Horatio Gates, who was replying to a 21 March letter of Dr. Philip Thomas of Frederick, Md., in which Thomas enclosed a copy of a Federalist pamphlet signed “Aristides” (Gates MSS, NN). “Aristides” was Alexander Contee Hanson, a judge of the Maryland General Court and Thomas’ brother-in-law. (For Hanson’s pamphlet, see CC:490 and RCS:Va., 521, note 2.) When Gates discovered that his letter had been printed in a newspaper (probably the Winchester *Virginia Gazette*), he wrote John Abert of Shepherdstown, Berkeley County, that “my Letter by You to Dr. Thomas, has got into the News Paper, for which I did not intend it, but since it has so happen’d I am satisfied” (Photostat, Gates MSS, NN).

3. The list was probably the one that the Winchester *Virginia Centinel* eventually printed on 9 April ("General Commentaries on the Election of Convention Delegates," April-June, II above).

4. A third extract of a strongly Federalist letter, this one from Fredericktown, Md., was printed at this point.

### Philadelphia Federal Gazette, 12 April<sup>1</sup>

We are favoured with the following extract from a letter, written by a gentleman in Richmond, and received by this day's mail:

"All the returns for delegates to the convention are now received from every part of the state; and it is with pleasure I inform you, that the list is such as will ensure the adoption of the constitution in this state, by a decided majority. From the apparent sentiments of the different members, at present, a majority of about 18 or 19 are avowedly federal. The governor is not reckoned as one of this number, though I have many reasons for believing that the constitution will have his firm support. When we reflect on the advantages that have resulted to the federal cause, in the conventions of other states, from free investigation, which has uniformly tended to dispel the mists of ignorance and prejudice, I think we may very reasonably expect, that a similar conviction will take place in the minds of many in our convention, when they shall have heard the merits of the constitution and the objections to it candidly examined: and that Virginia will shortly become one of the brightest pillars of the federal edifice."

As several other letters, lately received from the same quarter, corroborate the truth of the above intelligence, we may venture to pronounce it unquestionable, and founded on the best information.

1. Reprinted sixteen times by 12 May: Vt. (1), Mass. (3), R.I. (2), Conn. (3), N.Y. (5), N.J. (1), Pa. (1). The last paragraph was omitted from ten of the sixteen reprints.

### Cyrus Griffin to James Madison New York, 14 April (excerpt)<sup>1</sup>

... publius has not appeared since my last enclosure.<sup>2</sup>

I thank you for the favor of march 25th.<sup>3</sup>—we all rejoice greatly at your election; indeed, my dear sir, we consider you as the main pillar of the business on the right side; but from the elections hitherto sent to us there is certainly a majority against the system, but the western members will preponderate the scale—in point of virtues and real abilities the federal members are much superior—Henry is weighty and powerful but too interested—Mason too passionate—the Governor by nature timid and undecided—and Grayson too blustering.

Brown begs his best respects to you—nothing yet done with Kentucky,<sup>4</sup> or the Illi.<sup>5</sup> matters. . . .

1. RC, Madison Papers, DLC. Printed: Rutland, *Madison*, XI, 22.

2. Between 2 April and 28 May (when the second volume was published), no new numbers of *The Federalist* were printed. Griffin had probably sent Madison the last of the original newspaper essays on 7 April. (See Griffin to Madison, 7 April, Rutland, *Madison*, XI, 11; and Griffin to Madison, 28 April, below.)

3. This letter has not been located, but on the same day Madison wrote Eliza House Trist describing his election. (See Orange County Election, II above.)

4. For Congress' action on Kentucky statehood, see RCS:Va., 330–31, note 2.

5. The "Illi. matters" refers to Virginia's effort to obtain congressional reimbursement for expenses incurred in defending and maintaining the Northwest Territory, which Virginia ceded to Congress in 1783. The accounts were settled in 1793. (For a discussion of this matter, see Rutland, *Madison*, X, 353n–54n.)

### **Philadelphia Independent Gazetteer, 16 April<sup>1</sup>**

Extract of a letter from a gentleman of character in the state of Virginia, to his friend in this city, dated 30th March, 1788.

"You will no doubt be astonished when I inform you that the election of members to serve in the approaching convention, have generally been decided in favor of the opponents to the new constitution. Indeed I do not hear of a single instance where an exertion has been made in the opposition to the system, that has not succeeded. Colonel Mason is returned for Stafford county—Colonel Grayson for Prince William—Mr. Patrick Henry for Prince Edward, and Mr. E. Randolph for Henrico; there remains not a doubt but the exertions of those able and truly patriotic characters, will be crowned with success; and that Virginia will, by a very decided majority, reject a measure which I am candid to own at first met with my approbation; but which, I am, on an investigation, convinced will endanger those liberties for which America gloriously contended, during an eight years war."

1. Reprinted: *New York Journal*, 19 April; *Boston American Herald*, 28 April; *Poughkeepsie Country Journal*, 29 April; *Providence United States Chronicle*, 1 May.

### **George Lee Turberville to James Madison Epping, Richmond County, 16 April<sup>1</sup>**

Yr. favor of ye. 1st. Ulto.<sup>2</sup> reached me on the 7th. instant. The satisfactory information it contain'd deserves and receives my most Cordial & gratefull acknowledgements—altho I had satisfied myself in many respects touching ye arguments of the opponents to the new Constitution—yet I never before was so well acquainted with those powerfull reasons that may be urged agt. the adoption of a Bill of Rights—the favorite Topic of the ablest Antifederal declamers—at the

time I had ye honor of writing to you<sup>3</sup>—I had some expectation of being elected to the convention but it has pleased my County men to make choice of other Gentlemen, therefore my attention to this Subject for six months will be no other wise advantageous to me than that it has enabled me to form a judgement upon it from mature consideration for myself—Whereas had I not expected to have Voted upon it—I might have contented myself with the first opinion that reached me—What has not been done by ignorance—cunning—Interest—and Address to blast and blacken this Production? Misrepresentation—False reasoning—& wilful perversion have been made use of agt. ye. peice itself—Calumny and Falshood have Stamp'd ye *objects* of those who framed it with the most infamous colours—~~The design~~ of Its artfull enemies whose interests are opposite to the operation of an efficient Government—have resorted to arts like those above enumerated—hoping to effectuate by the operation of Clamour upon ye. passions—(what Reason applied to ye senses wou'd for ever reprobate and condemn)—“*The rejection of the New Constitution*” The result of a very cool enquiry into the probable effects of the new Constitution in my mind—in a few Words, is that it is adequate to every beneficial consequence for which Governments are or ought to be instituted—whilst at the same time the Checks are so ingeniously interposed between ye Rulers and ye Citizens as to leave all power—in the hands of the people—and therefore it is impossible that it shou'd ever continue perverted to bad purposes untill it is dangerous—unless the great mass of the people shou'd become *Corrupt!* ignorant of their Birthright—and regardless of their posterity—shou'd such at any period be the unhappy Characteristick of My fellow Citizens—they will then deserve—& must inevitably wear the Yoke of slavery—it will not be in the power of Folios of Bills of rights to maintain their Liberties—The rights of Freemen are only to be maintain'd by Freemen—and when the Spirit of Freedom—(that has ever elevated those who felt its influence amongst Mankind—) becomes extinct in the bosoms of men—Liberty itself will be a curse to them—

Experience the parent of Wisdom has already taught us that unanimity amongst us can be successfull—& That an attempt to Tyrannize hath already given unanimity to America—Each state will still have a Legislature possessing its confidence as effectually as the old Assemblies did—as adequate to the purposes of calling forth the forces and resources of the States, and as free to commune with the assemblies of the sister states—have we any reason then to suppose that an Act of Oppression wou'd pass unnoticed when issued by the New Congress? that the states wou'd not be unanimous in their opposition? or



that the general government which depends for support upon the individual states wou'd be enabled to triumph over the Liberties of America—when the Fleets and Armies of the British King supported by the Wealth of Britain were inadequate?

The sense of this State is it is to [be] feared but too much divided upon this weighty subject—indeed those who pretend to be acquainted with the opinions of the members elected do not hesitate to declare that the Members from Kentuckey will determine the question—and they admit that a Majority of 12 or 14 members are in favor of the adoption of the Gover[n]ment—from this Side of ye Cumberland Mountain—

I cou'd wish just for private gratification to be satisfied upon the subject of the Congress having the power to regulate the Time manner and place of holding Elections—the Clause is Ambiguous & Contradictory—First the States are to regulate—& then Congress are to alter—if they had declared that Congress might direct—in case of Neglect or refusal in the state—it wou'd have been clear—it is now as I have before said Ambiguous—and to Jealous minds it becomes an insurmountable objection—at the same time I am not apprehensive of Evil from that quarter, for was the Congress to attempt [the] Exercise of this power for party purposes—the intention wou'd be too apparent to pass by unnoticed—it wou'd create commotions that might prove fatal to the Congress itself—and therefore it is nugatory; for at the time when they may Venture upon the partial exercise of this power for *party purposes*—they may hold every constitutional check as dead letters—Suppose also that 2, 3 or 4 States shou'd reject the constitution—are they to form a separate confederation?—or are the nine to exercise coercion to bring them in?—or are they to be declared out of the Confederation?—This is by far the most exceptionable part of the Whole peice—

Pardon this long Letter replete with nothing that can be new or agreeable to you—remember when you are reading it that it is ye. want of matter not of inclination in ye writer to amuse you—Let me hope that as you may find yourself at Leizure you will be good enough to favor me with a line—remembring that in this retirement—a knowledge of what is passing in the world is doubly grateful—because it is so seldom that we ever become acquainted with it—

1. RC, Madison Collection, NN. This letter was postmarked at Richmond and sent free to Madison as a member of Congress.

2. Madison's 1 March letter has not been located.

3. See Turberville to Madison, 11 December (RCS:Va., 231–35).

**Edmund Randolph to James Madison**  
**Richmond, 17 April<sup>1</sup>**

My dear friend

I thank you for your favor of the 10th. inst. from Orange.

Colo. Nicholas in a late letter to me seems to think, that the majority is decidedly for the constitution.<sup>2</sup> Accuracy cannot be expected; but a comparison of the intelligence, which centers here from the various parts of Va., persuades me, that he at least mistakes the degree of the majority, and leads me to believe suspect, that it lies adverse to the constn. so far as *previous* amendments go.

Two objections have always struck me, as deserving consideration on the subject of previous amendments; one, that under their cover, a higher game might be played, the other, that the hope of obtaining them might be frustrated by the assent of too many states. The former I fear more and more, daily; not knowing how far the schemes of those who *externally* patronize them, may internally *extend*, believing that personal irritation has roused some to enlarge their original views of opposition, and having myself no disposition to enjoy the credit of establishing my own opinion at the expence of public safety. I mention these things in confidence; especially as my final determination will not be taken, until I hear something from Maryland at least. The accts. brought hither yesterday by Mr. Jones,<sup>3</sup> who had them from Colo. Hooe of Alexa.<sup>4</sup> are, that Chase, Paca, Mercer and L: Martin are elected in Annapolis, to the exclusion of all the Carrols,<sup>5</sup> and that Chase had caused a clerk of his to be elected in a county, which he could not represent.<sup>6</sup>

Upon the subject of religion, I have no difficulty. The Indiana claim seriously affects me. My idea of its revival depends not upon any words in the constn. expressly giving it new birth, but from the jurisdiction which the foederal ct. will enjoy. The question with them will be, is the right of the company an existing right. The merits cannot be suppressed, but by making the decision of the assembly conclusive. This I think is very difficult. But I never can agree to found any conduct of mine upon injustice. I therefore fear the claim, only because it may create a ferment with the settlers on Indiana, or among the citizens, who may eventually make them retribution

Mr. Buford being in a hurry I cannot add as much as I wish. I shall go to visit the post at the Point of Fork, on monday & thence to Albemarle, where I should be happy to see you.

I have sent to Mrs. Carr to inform her, that I had thirty pounds

from you for her but I have had no application for it, nor a safe oppy of sending it—

Mr. B. carries a letter from Colo. Hamilton to you.<sup>7</sup>

1. RC, Madison Papers, DLC. Printed: Rutland, *Madison*, XI, 25–26. Randolph replies to Madison's letter of 10 April (above).

2. This letter has not been located, but Nicholas, in his 5 April letter to Madison (above), wrote that the Federalist majority in the state Convention "if it exists, will be but small." He also gave Madison his opinion of Randolph's attitude toward the Constitution.

3. Probably Joseph Jones of King George County.

4. Robert Townsend Hooe, a former resident of Charles County, Md., was a member of the Alexandria mercantile firm of Hooe, Harrison, and Company, and a justice of the Fairfax County court.

5. Samuel Chase and John Francis Mercer were elected from Anne Arundel County; William Paca and Luther Martin from Harford County; and Nicholas Carroll from Annapolis. Charles, Daniel, and James Carroll were not elected.

6. Randolph refers to William Pinkney of Harford County who had read law with Samuel Chase from 1783 to 1786. Pinkney was admitted to the bar in 1786 and established his practice in Harford County.

7. Perhaps a reference to Alexander Hamilton's letter to Madison of 3 April (CC:660; and Rutland, *Madison*, XI, 7).

### **Pennsylvania Mercury, 17 April<sup>1</sup>**

*Extract of a letter from Richmond, Virginia, dated April 4.*

"The election for Delegates to our state convention is now over, and on enquiry, we are able to count a respectable majority, in favour of the new constitution—amongst this number, is the virtuous MADISON.—I am informed, that some counties are so convinced of the necessity of the adoption of the Constitution, that they are about to instruct their members so to do—Thus, my friend, your fears for Virginia are ill founded."

1. This item was also printed in the Philadelphia *Federal Gazette* on 17 April and was reprinted six times by 7 May: N.H. (1), Mass. (2), R.I. (1), Conn. (1), N.Y. (1).

### **Nicholas Gilman to John Sullivan New York, 19 April (excerpt)<sup>1</sup>**

... The accounts from Virginia since their election of delegates for the State Convention are rather favorable; as both parties write that there is a small majority east of the mountains in favor of the new System and that the question will depend in a great measure on the delegates from Kentucky—The Antifederalists are endeavoring to excite jealousy in that quarter by giving it out that the first business of the new Congress will be to Ceede the Navigation of the Mississippi

to Spain if they should not succeed in this mischief it is probable the question will obtain in their Convention. . . .

1. RC, State Papers Relating to the Revolution, II (1785–89), 139–42, New Hampshire State Archives, Concord. Printed: Otis G. Hammond, ed., *Letters and Papers of Major-General John Sullivan, Continental Army* (3 vols., Concord, 1930–1939, Volumes 13–15 of the *Collections of the New Hampshire Historical Society*), III, 581–83. Gilman (1755–1814) of Exeter, N.H., served in the Confederation Congress in 1787, 1788, and 1789, and signed the Constitution in the Constitutional Convention in 1787. He was elected to the first U.S. House of Representatives.

### George Washington to Thomas Johnson Mount Vernon, 20 April<sup>1</sup>

As well from report, as from the ideas expressed in your letter to me in December last,<sup>2</sup> I am led to conclude that you are disposed (circumstanced as our public affairs are at present) to ratify the Constitution which has been submitted by the general Convention to the People; and under this impression, I take the liberty of expressing a *single* sentiment on the occasion.—

It is, that an adjournment, (if attempted), of your Convention to a later period than the decision of the question in this State, will be tantamount to the rejection of the Constitution.—I have good ground for this opinion—and am told it is *the blow* which the leading characters of the opposition in [these two?] States<sup>3</sup> have meditated if it shall be found that a direct attack is not likely to succeed in yours.—If this be true, it cannot be too much deprecated, & guarded against.—

The postponement in New-Hampshire, altho' made without any reference to the Convention of this State, & altogether from the local circumstances of its own;<sup>4</sup> is ascribed by the opposition *here* to complaisance towards Virginia; and great use is made of it.—An event similar to this in Maryland, would have the worst tendency imaginable, for indecision there wld. have considerable influence upon South Carolina, the only other State which is to precede Virginia, and submits the question almost wholly to the determination of the latter.—The *pride* of the State is already touched upon this string, & will be strained much higher if there is an opening for it.<sup>5</sup>

The sentiments of Kentucky are not yet known here.—Independent of these, the parties with us, from the known, or presumed opinions of the members, are pretty equally balanced.—The one in favor of the Constitution p[r]eponderates at present—but a small matter cast into the opposite scale may make it the heaviest.

If in suggesting this matter, I have exceeded the proper limit, my motive must excuse me—I have but one public wish remaining—It is,

that in *peace* and *retirement*, I may see this Country rescued from the danger which is pending, & rise into respectability maugre the Intrigues of its public & private enemies.—

1. RC, Miscellaneous Vertical File, #1118, Maryland Historical Society. Johnson (1732–1819), a Frederick County, Md., lawyer, had been a delegate to Congress, 1774–76, and the state's first governor, 1777–79. He served in the November–December 1787 session of the state House of Delegates. Johnson voted to ratify the Constitution in the Maryland Convention on 26 April. He was also a director of the Potowmack Navigation Company, of which Washington was president.

2. See Johnson to Washington, 11 December (CC:336).

3. The letterbook version reads: "in the next State" (Washington Papers, DLC).

4. See "The Adjournment of the New Hampshire Convention," 22 February (CC:554).

5. The letterbook version reads: "will be raised much higher if there is fresh cause" (Washington Papers, DLC).

### James Madison to Thomas Jefferson Orange, 22 April<sup>1</sup>

Being just acquainted by a letter from President Griffin that Mr. Paridise is in N. York and proposes to sail in the first packet for France I drop you a few lines which will go by that conveyance if they arrive at N. York in time;<sup>2</sup> which however I do not much expect.

The proposed Constitution still engrosses the public attention. The elections for the Convention here are but just over and promulgated. From the returns (excluding those from Kentucky which are not yet known) it seems probable, though not absolutely certain that a majority of the members elect are friends to the Constitution. The superiority of abilities at least seems to lie on that side. The characters of most note which occur to me, are marshalled thus. For the Constitution, Pendleton, Wythe[,] Blair, Innis, Marshal, Doctr. W. Jones, G. Nicholas, Wilson Nicholas, Gabl. Jones, Thos. Lewis, F. Corbin, Ralph Wormley Jr.[,] White of Frederik, Genl. Gates,<sup>3</sup> Genl. A. Stephens, Archd. Stuart, Zachy. Johnson, Doctr. Stuart[,] Parson Andrews, H. Lee Jr.[] Bushrod Washington, considered as a young Gentleman of talents: agst. the Constitution, Mr. Henry, Mason, Harrison, Grayson, Tyler, M. Smith, W. Ronald, Lawson, Bland, Wm. Cabell, Dawson.

The Governor is so temperate in his opposition and goes so far with the friends of the Constitution that he cannot properly be classed with its enemies. Monroe is considered by some as an enemy; but I believe him to be a friend though a cool one. There are other individuals of weight whose opinions are unknown to me. R. H. Lee is not elected. His brother F. L. Lee is a warm friend to the Constitution, as I am told, but also is not elected. So are Jno. & Man Page.

The adversaries take very different grounds of opposition. Some are opposed to the substance of the plan; others to particular modifications only. Mr. H—y is supposed to aim at disunion. Col. M—n is growing every day more bitter, and outrageous in his efforts to carry his point; and will probably in the end be thrown by the violence of his passions into the politics of Mr. H—y. The preliminary question will be whether previous alterations shall be insisted on or not? Should this be carried in the affirmative, either a conditional ratification, or a proposal for a new Convention will ensue. In either event, I think the Constitution, and the Union will be both endangered. It is not to be expected that the States which have ratified will reconsider their determinations, and submit to the alterations prescribed by Virga. and if a second Convention should be formed, it is as little to be expected that the same spirit of compromise will prevail in it as produced an amicable result to the first. It will be easy also for those who have latent views of disunion, to carry them on under the mask of contending for alterations popular in some but inadmissible in other parts of the U. States.

The real sense of the people of this State cannot be easily ascertained. They are certainly attached and with warmth to a continuance of the Union; and I believe a large majority of the most intelligent and independent, are equally so to the plan under consideration. On a geographical view of them, almost all the Counties in the N. Neck have elected federal deputies. The Counties on the South side of James River have pretty generally elected adversaries to the Constitution. The intermediate district is much chequered in this respect. The Counties between the blue ridge & the Alleghany have chosen friends to the Constitution without a single exception. Those Westward of the latter, have as I am informed, generally though not universally pursued the same rule. Kentucky it is supposed will be divided.

Having been in Virga. but a few weeks, I can give you little account of other matters, and none of your private affairs or connections; particularly of your two nephews. The Winter here as every where else in the U.S. was very severe, which added to short crops of corn, threatened a great scarcity & high price. It is found however that neither of these evils has taken place. Corn may be purchased for 2 dollars, and even 10/- per barrel. Tobacco is as low at Fred[ericksbur]g as 18/. Per Ct and not higher at Richmond than 22 or 23/.—There is at present a very promising spring: especially in the article of fruit. The night before last was so cold as to produce an alarm for the vegetation of all sorts; but it does not appear that any thing less vulnerable than young cucumbers has been injured.

I shall ask the favor of Mr. Griffin to send you by Mr. Paradise, or if he should be gone by some other hand, the debates of the Conventions in Penna. & Massachusettes, and any other publications worth your reading.<sup>4</sup>

1. RC, Madison Papers, DLC.

2. On 7 April Cyrus Griffin, the President of Congress, wrote Madison that, if he had any confidential letters for Jefferson, he could entrust them to John Paradise who would leave on the first French packet for Paris (Rutland, *Madison*, XI, 11. Paradise was an English linguist, who had come to Virginia in 1787 with his Virginia-born wife, Lucy Ludwell.). On 20 April Madison wrote to Griffin asking him to send several things to Jefferson, but around 12 May Griffin replied that Paradise had departed before Griffin had received Madison's letter (*ibid.*, 44. See also note 4, below.)

Madison, a delegate to the state Convention, also asked Griffin to send him a copy of the printed debates of the Massachusetts Convention which on 26 May Griffin forwarded to Madison at Richmond, where the state Convention was scheduled to convene on 2 June. (See Griffin to Madison, 26 May, Rutland, *Madison*, XI, 58. See also Griffin to Madison, c. 12 and 19 May, *ibid.*, 44, 53.)

3. It had been reported incorrectly that Horatio Gates was elected to the Convention. (See Berkeley County Election, II above.)

4. Paradise sailed for France before Griffin received Madison's request (note 2, above). Nevertheless, Paradise was carrying to Jefferson the printed debates of the Massachusetts Convention, as well as "other publications worth attention" (Griffin to Madison, c. 12 May and 19 May, Rutland, *Madison*, XI, 44, 52). The printed debates were given to Paradise by congressman Edward Carrington (Carrington to Jefferson, 24 April, Boyd, XIII, 101).

## An American

### Norfolk and Portsmouth Journal, 23 April

"An American" was possibly Gouverneur Morris, who had represented Pennsylvania in the Constitutional Convention. Morris had used the pseudonym, "An American" several times during the Revolution, and the prose of this essay is reminiscent of his writings. Morris had been in Virginia since November assisting Robert Morris with the collection of debts. During their stay, they visited Portsmouth and Williamsburg, both near Norfolk, where the *Norfolk and Portsmouth Journal* was printed.

Mr. Printer, The general adoption of this admirable plan of government, is of such infinite importance to America, every benevolent person whose mind is sincerely interested in the welfare of his country or of society, must realize great delight in anticipating an event which promises so much future happiness to millions of the human race. I confess I am too shallow a politician to investigate and dissect this Constitution into its minute parts, neither would my inclination lead me, our press already teeming with Authors who have done it ample justice to their honor, and the inestimable merit of the patriots who framed this great bulwark of our liberties. Having premised thus far, I shall offer, with the greatest diffidence and respect, my reflections

to the Citizens of Virginia, hoping the intention of my heart may compensate for the deficiency of ability in speaking the merits of my theme.

The adoption of this government by our Sister States, is surely no weak argument in favour of its worth, and I trust will have its full weight when the scales of decision shall be poised in this State.

Among the foremost of these will be Massachusetts who, when Great-Britain threatened the desolation of our country, and even brought over the chains which were to fetter and throw us into perpetual slavery (or what amounts to the same wrest from us the rights of freemen), nobly stepped forth with this motto, which was wafted from State to State, "Unite or die." She drew the sword (the scabbard was trodden under foot) which served to dispel the dark clouds impending over the immense region we inhabit. Renew to your minds the memorable 19th of April.<sup>1</sup> Walk over the dust of Charlestown. View Bunker's Hill whitened with the bones of slaughtered heroes. Recollect her citizens have shared the same dangers, fought the same battles, and many of them sealed with the loss of their blood the victories which at this day render us a free and independent people. I wish not to harrow up your feelings by bringing to your recollection the late glorious revolution, but rather adopt the humane maxim of Forgive and forget. It was necessary for me to advert to and touch as gently as possible on a few leading features of past events, in order to shew that men who value life as a bubble when liberty is the price; who possess the same fine spun ideas of rights; who breathe the same air of freedom; tread the same soil, and are linked in the same chain which binds us all in one united amity: that these men after the most mature investigation and deliberate argument, cautiously weighing every line and anatomizing every fibre, have ratified it. Five other States, with equal wisdom and cool deliberate argument, have assented to a Constitution so wisely contrived, and so fortifying the liberties of the people; it is hard to speak with that praise which is justly its due; the attentive perusal of it, and their approbation, will furnish its best encomium. They with the same ardor and magnanimity gloried in the cause of independance, and wish not after so many struggles, hardships, and slaughters which have deluged our land, and made a sacrifice of our citizens, to reject a government which seems to be stamped with the finger of the Deity. Being fully convinced of this melancholy truth, that the dismemberment of the Union (which will be no more than an heap of little Republics detached and divided, perpetually contending with each other, and in hourly danger of being usurped by a common enemy), must be the fatal conclusion of its rejection. In some of these States



I allow there were a respectable minority who were averse to some parts, yet, when taken collectively, admired, and in admiring could not but reverence the spirit of freedom which every line is fraught with. The conduct of the minority of Massachusetts is too notorious to mention; the plaudits of posterity are never backward in giving merit its due praise. The great Washington has honoured them with his approbation (which appeared in a late Boston paper),<sup>2</sup> and is alone a sufficient reward for the disinterested love of their country.

*(To be concluded in our next.)*<sup>3</sup>

1. The Battles of Lexington and Concord took place on 19 April 1775.

2. "An American" refers to an extract of George Washington's 28 February letter to Caleb Gibbs of Boston in which Washington praised the conciliatory attitude of some Antifederalist delegates to the Massachusetts Convention. This extract was printed in the *Massachusetts Centinel* on 22 March and reprinted forty-nine times throughout America, including three Virginia newspapers—the *Virginia Independent Chronicle* and *Winchester Virginia Gazette*, 16 April; and the *Richmond Virginia Gazette and Weekly Advertiser*, 17 April. For the complete text of Washington's letter, see RCS:Va., 427–28.

3. In the 30 April and 7 May issues, the printer of the *Norfolk and Portsmouth Journal* apologized for not printing the second part of "An American" due to "unexpected matters." The printing of "An American" may have been completed in the no longer extant issues of 14 and 21 May.

### **Winchester Virginia Gazette, 23 April**

The great political question now is, observes a Federalist, whether America shall or shall not have a government that will make of thirteen states a united people, happy amongst themselves, and respected by other nations. To effect the former, the adoption of the federal government, is the only alternative.

An Anti-federal says, the great political question now is, whether the states of America, united by their solemn faith and common interests, shall continue to be a federal republic, so constructed in its forms, and vested with such complete and extensive general powers, as will embrace every federal object, and render the general government great, energetic and respectable; and preserve to the states their independence in the full and free exercise of their internal sovereignty, and consequently the people free, intelligent, prosperous and happy: or, whether they shall adopt a consolidated government, of such a nature, and so extensive, as never did, nor never can, in the nature of things, preserve confidence in government, or happiness and political freedom to the people.

*Thus different interests create different views, and until the important question is decided, a union of sentiment cannot be expected.*

**Cassius III: To Richard Henry Lee, Esquire  
Virginia Independent Chronicle, 23 April<sup>1</sup>**

SIR,

*April 9, 1788*

You say "that standing armies in times of peace are dangerous to liberty, and ought not to be permitted, unless, assented to by two thirds of the members, composing each house of the legislation under the new constitution." To preserve the public tranquility, every government should possess the power of repealing all attacks which may be made on it by a foreign power, or an intestine enemy; and this power must, also, extend to the guarding against every possible danger before it, actually, takes place, otherwise it might be ineffectual. Wisely, then, has the new constitution invested Congress with a power to levy what troops, they may think necessary, either in times of peace, or war. But, why object to the manner, in which this power is given? Is not the abuse of it better guarded against in the new constitution, than in the present confederation? By the confederation, it is declared, "that the United States in Congress assembled shall have the sole and exclusive right and power of determining on peace and war. All charges of war and all other expences, that shall be incurred for the common benefit and welfare, and allowed by the United States in Congress assembled, shall be defrayed out of the common treasury, which shall be supplied by the different states."<sup>2</sup> Thus Congress, *now*, have the right to raise any number of troops, they please, and to call on the different states to pay the expences, without any limitation, as to the number of men, or the time, for which, they are to be inlisted. Under the new constitution it is declared "that Congress shall have the power to raise and support armies, but no appropriation of money, to that use, shall be for a longer term than two years." By this constitution, they, not only have no greater power to keep standing armies during the time of peace, than they have at present, but are prevented, by the want of money for their support, from inlisting them for a greater length of time, than two years. A restraint unknown to the present government. And, when it is recollected, that at the same period, the people, at large, will have the choice of new representatives, it will, always, be in their power to determine, whether the troops shall be continued or discharged. When it is recollected also, that the power "to make rules for the government and regulation of the land and naval forces" is vested in Congress, and not in the president alone, we shall be satisfied, that the continuance of the army will, always, depend on the will of the people, expressed in the house of representatives. The mutiny act in England, the law by which the army is

governed, gives the house of commons such weight in the government, that they can, not only, disband the army, when they please, but by threatening to discontinue the necessary provisions for its support, they can, so, enforce their resolutions upon any other matter, as to render the *King's* dissent to a law, which has received the approbation of both houses, an experiment too dangerous for him to make.<sup>3</sup>

You say, "the senate is a body of six years duration, and as in the choice of president the largest state has but a thirteenth vote, so it is in the choice of senators." So much of this paragraph, as relates to the election of a president, has already been refuted by a late anonymous writer in a letter addressed to yourself.<sup>(a)</sup> A little reflection will satisfy any thinking mind, that it was, essentially, necessary to give to every state in the union an equal representation in the senate. The States, however, differing in extent and numbers are all sovereign and independent. And the grand object, which each state had in view, by uniting in a general government, must have been the retaining its sovereignty and independence. If the representation in the senate had been in proportion to the numbers in each state, as it is in the house of representatives, the smaller states would have no security for retaining their independence a single day, and their dearest interests and rights would have been, equally, endangered. For, as I mentioned before, the whole number of representatives in the lower house will be sixty five, but of those, the states of Georgia, South-Carolina, North-Carolina, Maryland, Jersey, Rhode-Island, and New-Hampshire, will elect but twenty seven. So that six states, out of thirteen, will have a majority of thirty eight in the house of representatives, and if their number bore the same proportion in the senate, the *minority* of the states would, always, govern the *majority*. But, as it now stands, both are safe. Because, the *large states* having that *decided majority* in the house of representatives, without whose consent nothing can be done, and the *smaller states* having an *equal representation* in the senate to bring about an agreement, each house must adopt such measures, as will promote the general good. But how came you to make this objection, when your great leader—your political mentor—Mr. Mason was the very man, who proposed to agree to it in the convention, and who *now* contends, that it is right?<sup>4</sup> After having been employed, as a vehicle, to convey to the public his political sentiments; it is not fair to combat some of his favorite opinions. Recollect, what the Governor says upon this subject, "The two first points are the equality of suffrage in the senate, and the submission of commerce to a mere majority in the legislature, with no other check, than the revision of the president. I conjecture that neither of these things can be corrected, and partic-

ularly the former, without which we must have risen perhaps in disorder.”<sup>5</sup> If, sir, you should, still, object to the equality of representation in the senate, when you know, it is a point, on which the union depends, you may, in my humble opinion, be fairly denominated an avowed enemy to the union.

“If it be found good” you say “after mature deliberation, adopt it; if wrong, amend it at all events; for to say, as many do, that a bad government must be established for fear of anarchy, is really saying we must kill ourselves, for fear of dying.” This advice seems to suppose, that Virginia can amend or omit it at pleasure. The arguments drawn from the facility, with which the last convention was obtained, to prove that another may be procured, are not conclusive. The defects in the present confederation were obvious, and experience had proved, that any recommendation from Congress to alter it was ineffectual. It was, then, judged by all America, that the only proper mode of proposing an alteration in the general government, was to appoint a general convention to assemble for that particular purpose. This convention met under many advantages, that can never attend another. Each state delegated her choicest sons, and the convention being dissolved, as soon as they formed the new plan, without a prospect of having any share in the execution of it, it must give the people, at large, the strongest reasons to believe, that they were not actuated by any thirst of power. But there is another reason, which will convince us, that no other convention can, ever, agree on a general plan of government. The last met unrestrained by any local matters, and felt itself at liberty to concede any thing to each other, that they found necessary to the general good. But, if a second convention should be called for the purpose of acceding to amendments proposed by any one, or more states, every state will propose its amendments, and certainly will not forget, such as, would most immediately concern its own particular interest. Thus instructed, the members will consider themselves, as fettered, and of consequence nothing would be done. Let any man, who is acquainted with the history of the last convention, determine, whether any general plan could have been adopted without mutual concessions. All the states came into the former proposition for a convention, because, there was no other way to obtain the general opinion of America on the subject. But after that general sense has been obtained, what reason, which would be satisfactory to those states, who may approve the plan proposed, can be assigned? Will they not say?

“You have, here, obtained the sense of all America, through their representatives, and that with only three dissenting votes.<sup>6</sup> What can

you promise yourselves more? Do you, *Virginia*, complain of the inequality of representation in the senate, and that a majority are empowered to make commercial regulations? Recollect, that we, in return, give to you a representation for three-fifths of your slaves, and agree, that those slaves shall pay a capitation tax of but six shillings, when we pay a similar one of ten. Will you make no concessions? Will you make no sacrifices? What is become of that patriotic spirit, which you have, formerly, exhibited on many trying occasions? What is become of that generosity, which has, hitherto, characterised your political conduct? What is become of that ready compliance, with which you, always, submitted to any measure, that might tend to promote the general good? Will you forfeit that character, which an uninterrupted series of patriotic conduct has, universally, obtained you? Will you, *now*, forego the many important advantages, which we would enjoy from a fœderal union by making to each other mutual concessions?"

Admit, sir, that there are objections to the fœderal government. Are they all discovered? It would be presumption to say, that they are, or can be, until it has at first been put in motion. Should we attempt amendments *now*, it would not prevent the necessity of another convention for that purpose. But should we postpone making amendments, until experience, the only infallible guide—shall have pointed out the real defects, then one convention will answer every purpose, and thus prevent that danger, which you say will arise from frequent changes in government. Nothing, but experience can point out the bad features of a government. For you know, sir, that the English government, which is supposed to be the best in the world, was not produced by a system formed at any one time, but by additions made, when experience pointed out the necessity of them. Neither is the objection to its immediate adoption a good one, which says, "that if too much power is given by this government to Congress, it ought not to be expected, that they will part with it." Because two-thirds of the legislatures of the different states have a right to demand another convention for the purpose of amending it, and if the government should be oppressive, it will be known and felt by each legislature, consequently we may safely rely on their exercising this right. America has been without an efficient government from the declaration of independence. Until last year, the calamities, which might have been expected from *this* situation, have been suspended by the expectation, that they would be remedied in the manner pointed out by the confederation. Since that time, the wisdom of the convention has been thought the ultimate resource. If the result of *that* wisdom is rejected, and distant plans only talked of, the consequences may be fatal.

"With the constitution came" you say "from the convention so many

members of that body to Congress, and of those too, who were amongst the most fiery zealots for their system, that the votes of three states being of them, two states divided by them, and many others mixed with them, it was easy to see, that Congress could have but little opinion upon the subject." What do you mean, sir, by these insinuations? Do you wish to prejudice the public against those members? I know them not all, but those whom I do know, have characters too firmly established to be injured by your licentious pen. You wish, I presume, to have it supposed that all *public virtue* and *love* for your country are centered in your *immaculate* bosom alone. What! are you not the man, who—but I will forbear—*Good Heavens!* could I be roused from the profoundest contempt into anger, I would convince you, that what I have, as yet, said, was but the mild language of friendly reprehension. I would try the utmost exertion of my abilities to prevent your name from sinking into merited oblivion, and endeavor to preserve, for the instruction of posterity the perishable turpitude of your political conduct, by rendering it immortal. But I have done with you. In my humble opinion, your credit is irrecoverably ruined. You have forfeited the esteem of the public, and can no longer lay claim to the confidence of the people. I leave you to *God* and the suggestions of your own conscience.

(a) *Valerius*<sup>7</sup>

1. For the authorship, publication, and circulation of "Cassius," see "Cassius" I, *Virginia Independent Chronicle*, 2 April (above). "Cassius" answers Richard Henry Lee's letter of 16 October to Governor Edmund Randolph (RCS:Va., 59–67).

2. "Cassius" quotes from Articles IX and VIII, in that order, of the Articles of Confederation (CDR, 89).

3. The Mutiny Act of 1689 provided for military discipline by courts-martial. From that time forward, the act, which was essentially a military budget, was reenacted annually. In 1784, for example, the House of Commons delayed passage of the mutiny act as a means of asserting its independence in the face of its threatened dissolution by the king.

4. In the Constitutional Convention, George Mason supported the compromise on representation, even though he was "a friend to proportional representation in both branches." Mason, Virginia's member of the committee that devised the compromise, "supposed that some points must be yielded for the sake of accomodation" (Farrand, I, 544. See also *ibid.*, 532–33.).

5. See Governor Edmund Randolph's letter of 10 October to the Speaker of the Virginia House of Delegates (RCS:Va., 273).

6. George Mason, Edmund Randolph, and Elbridge Gerry refused to sign the Constitution in the Constitutional Convention.

7. See "Valerius," *Virginia Independent Chronicle*, 23 January (RCS:Va., 313–20).

## A Freeholder

### *Virginia Independent Chronicle*, 23 April

Freeholders, Farmers, Planters, Fathers, Husbands, Holders of Public Securities, and even Debtors and Creditors, believe me, you are all interested in a speedy establishment of the new constitution—You free-

holders, because your votes are extended by it, to the election of representatives in Congress, and of the president of the states—your importance is greatly increased by this means.—Farmers and Planters, take notice, that your crops may then be sent out of the state free from all duties; and your brethren of the other states are invited by this means and by having no duties on entries to pay, to come and trade with you.—Fathers and husbands, observe, that by this constitution alone you can hope to enjoy domestic happiness—this alone can secure to you your republican form of government, and can guard you against foreign and domestic violence.—Holders of public securities, you have nothing else to rely on.—Debtors, remember, that though you can no longer hope for paper money, or for any interference of the assembly in your favor; yet commerce will flourish, industry will increase, public and private credit will be established; which circumstances must bring money amongst us, and enable you to borrow or sell upon good terms—debtors may then certainly have credit for the full value of their estates; or if they should be so low in credit as to be incapable of borrowing, they may at least sell upon good terms: Neither of which things can now happen.—Creditors, you know without being told, that the new constitution secures you against tender acts, &c. and will enable your debtors to pay you honorably. Let every honest fellow of you then support the new constitution—tell those who pretend to point out dangers in it, that you see more danger in your present constitution; and that the evils they talk of, are imaginary; or, if real, may be avoided and guarded against; but the good which you see in it, you know to be great and substantial, and worth your embracing even if all the mischiefs they pretend are in it, were really there.

**Edward Carrington to Thomas Jefferson**  
**New York, 24 April (excerpts)<sup>1</sup>**

I was but a few days ago honoured with your favor of the 21. December.<sup>2</sup> having been absent on a trip to Virginia ever since the 1<sup>t</sup>. of Jany. I was alike cut off from it, and an opportunity of writing you. Massachusetts, Jersey, Pennsylvania, Delaware, Connecticut and Georgia, have adopted the Constitution—New Hampshire has been in convention upon it, but finding that a Majority had assembled under instructions or promises to vote in the Negative, of whom a sufficient number were converted to turn the scale, an adjournment has taken place until June for the purpose of getting such clear of their fetters, and it is not doubted by the Friends of the measure that this will be

effected so that a ready adoption will be the consequence of their reassembling. New York, Maryland, Virginia, North Carolina & South Carolina are to deliberate between this and July—in Maryland & South Carolina no doubt is entertained as to the adoption—in New York & Virginia very active opposition is made and the event is uncertain—in the latter it will depend much upon the ideas entertained in convention as to the issue in N. Hampshire, whose reassembling is to be after the meeting in Virga. I am certain that a great Majority of our Convention will be for adopting upon being ascertained that Nine States will adopt, as much worse apprehensions are held from the event of a disunion, that [i.e., than] from any thing that is in the constitution—We have a party that is truly antifederal headed by Mr. Henry, but it will be limited to a few, unless the federalists who are for amendments, should, from a mistaken view of the probability of the measures being carried into effect by Nine States, be drawn into steps favouring the antifederal scheme—Mr. H— does not openly declare for a dismemberment of the Union, but his Arguments in support of his opposition to the constitution, go directly to that issue—He says that three Confederacies would be practicable & better suited to the good of America, than one—God forbid that I should ever see the trial made—Virginia would fall into a division from which she might add to her burthens, but could never derive aid of any kind.

North Carolina is to set after Virginia, and it is probable, will follow her. . . .

It would have afforded me much pleasure to have seen your sentiments fully upon this subject but Mr. Madison having gone to Virga. before my return to this City, I have not seen your letter to him as yet.<sup>3</sup> You ask “would it not have been better to assign to Congress, exclusively, the Article of imposts for federal purposes, & to have left direct Taxation exclusively to the States.” It is probable that the former, aided by the Land Office, might have cleared off the present debts of the Union, & supported the current expences of Government during peace, but in a case of War, other resources must be brought into practice, and with a view to such an event, some coercive principle must have been established whereby the federal Government should act with effect, and had this not been interwoven in its civil administration, a military one must occasionally have been put in practice upon delinquent States—the former will never be exercised but when necessary, & then in a way not odious or inconvenient to the people the latter must forever be both odious & inconven[i]ent, let the occasion be what it may. . . .

P.S. I have not a list of the Returns for the Virginia Convention or I



would send it to you—it contains many obscure characters whom you would know nothing of—it is unfortunate that in this great business the passions instead of the Reason of the people, were called into operation. this circumstance renders the issue then the more uncertain because a great proportion must act from the influence of a few Men whose popular talents may be exerted.

1. RC, Jefferson Papers, DLC. Printed: Boyd, XIII, 100–3. This letter was carried by John Paradise who was on his way to Paris. (See James Madison to Jefferson, 22 April, note 2, above, and Carrington to Jefferson, 14 May, below.)

2. See Boyd, XII, 445–47. (For a section from this letter, giving Jefferson's opinion of the Constitution, see RCS:Va., 253, note 1.)

3. Carrington probably refers to Jefferson's letter of 20 December which was Jefferson's first substantial commentary on the Constitution (RCS:Va., 249–53).

### Providence United States Chronicle, 24 April<sup>1</sup>

*Extract of a Letter from a Gentleman of Veracity in Fairfax County, Virginia, to his Friend in this Town, dated March 24, 1788.*

“This is a Time of Importance to us—for in the Course of this Month the Elections of Members in the several Counties in this extensive State, for a Convention, to determine whether they will adopt or reject the Form of Government recommended to the States by the General Convention, are to be completed—on the Adoption of which the very Existence of this Town, as a Place of Trade and Commerce, depends. This County is highly federal.—At our Election yesterday Week, Colonel Simms and Dr. Stewart, two firm Federalists, were elected Members of Convention for this County, with but one opposite Vote, and that by a Son of the famous Colonel Mason: The Colonel is an Inhabitant of this County—By this you will mark his Influence at Home;—however he has had Address enough to procure his Election for Convention, in a neighbouring County.<sup>2</sup> (The Elections in most of the Counties are completed; and from the best Information that can be obtained, I have the Pleasure to congratulate you on the Election of a considerable Majority of Federalists; so that I doubt not but this State will add another Pillar to the Federal Arch.)<sup>3</sup> Great Electioneering has been practiced in this State, by the Antifederalists, especially in the back Counties, where the People are very illiterate, and have had little or no Information on the Subject.—Even the Temples of the Lord have been polluted on the Occasion, by public Declaimers entering the sacred Desks on Sundays, after divine Service, and thence dealing out their vile Declamations against the Constitution—and among other like Falshoods, telling the People that if the new Constitution was adopted the Officers of Congress would come and survey their best Farms for

themselves, and if they refused to give them up, they would sue them in a Federal Court, in some extreme Part of the Continent—where, being unable to defend, they must lose their Estates: That their Sons will be pressed into the Army: That their Daughters will be ravished—and that every Species of personal Insult and Abuse will be offered them at Pleasure, without the Possibility of Redress. What will not wicked and unprincipled Men do and say to effect their infernal Purposes?—Great Part of the Opposition that the Constitution has met with in this State, has arisen from Families who during the late Struggle for the Liberties of our Country were piqued at the justly-acquired Fame of our illustrious Commander in Chief, and who are perhaps now jealous that he will soon rise to a Situation which they cannot presume to, by the grateful Suffrages of a free People. Governor Randolph is elected a Member of Convention for Henrico County (Richmond)—This is pleasing to the Federalists—for although he did not sign the Constitution in Convention, yet even in his Objections stated to the Assembly, as well as in private Conversation, he has uniformly declared that he is for adopting it as it now stands, rather than to reject it altogether—which he has declared, in his Opinion, would endanger the Existence of the Union.<sup>4</sup>—Possessing these Sentiments, and having good Abilities and great Influence, I think his being a Member of Convention will be serviceable to the Union.”

1. Reprinted: *Massachusetts Gazette*, 29 April; *New Hampshire Gazette*, 15 May; *Pennsylvania Packet*, 27 May; *Philadelphische Correspondenz*, 3 June (excerpt). See also note 3 (below).

2. George Mason was elected from Stafford County.

3. This sentence in angle brackets was reprinted in the Portland, Maine, *Cumberland Gazette*, 15 May.

4. See Randolph's 10 October letter to the Speaker of the House of Delegates (RCS:Va., 274).

### Edward Carrington to William Short New York, 25 April<sup>1</sup>

I a few days ago had the pleasure to receive your two favors of the 22d. Decr. & 4th. of Feby.<sup>2</sup>—my absence from this City placed me out of the reach of them; and also an opportunity of writing you.

I have many acknowledgements to make you for your repeated communications, which to me are at the same time pleasing and instructing—from European affairs we ought to keep ourselves as clear as possible, as our happiness & prosperity are abundantly to be found within ourselves, but at the same time our thus keeping clear, depends, in some measure, upon our knowing what is going forward there, and

the changes which have happened; or are likely to take place, in their various connections & circumstances.

I have by this opportunity written fully to Mr. Jefferson upon the politics of this Country to which I beg leave to refer you<sup>3</sup>—I have also inclosed him a Copy of the Debates of the Convention of Massachusetts which you will find interesting,<sup>4</sup> to you I inclose a few of the New York papers which contain some of the politics of this State—be good enough to give Mr. Jefferson a sight of them.

The Convention of Virginia is to set in the fore part of June—it will have in it some of our greatest Men, such as Pendleton Wythe Madison Blair, Innes & Marshal, who are decidedly for the Constitution—Mason & Governor Randolph, who are for it, with amendments but *say* they will not hazard the Union in attempting them—Henry under whose banner some of tolerable influence will enlist against the Constitution, & I fear upon a direct antifederal principle—it is unfortunate that in the elections the passions instead of the reasons of the people, were brought into operation too generally, which occasions the great body of the Convention to be of weak & obscure men—these will be subjects for Management, and the popular talents of Mr. H— is to be dreaded amongst them. By the next Packet I will write you more fully.

Mr. Brown of our Delegation is the Gentleman you supposed<sup>5</sup>—I had already found him to answer your description—I shewed him your letter—He says he will write you.

This will be handed you by Mr. Paradise whose Lady accompanies him to France—they are already well known to Mr. Jefferson, and I beg leave to introduce them to you.

1. RC, Short Papers, DLC. Short replied to Carrington on 26 May indicating that John Paradise (mentioned in the last paragraph as the carrier of this letter) had arrived in Paris on the previous day (Short Papers, DLC).

2. Short's letters were concerned largely with European events and politics (*ibid.*).

3. See Carrington to Thomas Jefferson, 24 April (above).

4. See James Madison to Jefferson, 22 April, note 4 (above).

5. In his letter of 4 February, Short had asked Carrington if the Mr. Brown listed as a Virginia delegate to Congress was his "old acquaintance & friend." Short said "that there are few men of more real understanding & sounder judgment" than Brown (Short Papers, DLC).

### **George Washington to John Armstrong, Sr. Mount Vernon, 25 April<sup>1</sup>**

From some cause or other which I do not know your favor of the 20th of February<sup>2</sup> did not reach me till very lately. This must apologize for its not being sooner acknowledged.—Altho Colo Blain forgot to call upon me for a letter before he left Philadelphia, yet I wrote a few

lines to you previous to my departu[r]e from that place; whether they ever got to your hands or not you best know.<sup>3</sup>—

I well remember the observation you made in your letter to me of last year, “that my domestic retirement must suffer an interruption”.— This took place, notwithstanding it was utterly repugnant to my feelings, my interest and my wishes; I sacrificed every private consideration and personal enjoyment to the earnest and pressing solicitations of those who saw and knew the alarming situation of our public concerns, and had no other end in view but to promote the interest of their Country; and conceiving that under those circumstances, and at so critical a moment, an absolute refusal to act, might, on my part, be construed as a total dereliction of my Country, if imputed to no worse motives.—Altho’ you say the same motives induce you to think that another tour of duty of this kind will fall to my lot, I cannot but hope that you will be disappointed, for I am so wedded to a state of retirement; and find the occupations of a rural life so congenial; with my feelings, that to be drawn unto public at the advanced age, would be a sacrifice that could admit of no compensation.

Your remarks on the impressions which will be made on the manners and sentiments of the people by the example of those who are first called to act under the proposed Government are very just; and I have no doubt but (if the proposed Constitution obtains) those persons who are chosen to administer it will have wisdom enough to discern the influence which their examples as rulers and legislators may have on the body of the people, and will have virtue enough to pursue that line of conduct which will most conduce to the happiness of their Country;—and as the first transactions of a nation, like those of an individual upon his entrance into life, make the deepest impression and are to form the leading traits in its character, they will undoubtedly pursue those measures which will best tend to the restoration of public and private faith and of consequence promote our national respectability and individual welfare.—

That the proposed Constitution will admit of amendments is acknowledged by its warmest advocates but to make such amendments as may be proposed by the several States the condition of its adoption would, in my opinion amount to a compleat rejection of it; for upon examination of the objections which are made by the opponents in different States and the amendments which have been proposed, it will be found that what would be a favourite object with one State is the very thing which is stren[u]ously opposed by another;—the truth is, men are too apt to be swayed by local prejudices, and those who are so fond of amendments which have the particular interest of their own

State in view cannot extend their ideas to the general welfare of the Union—they do not consider that for every sacrifice which they make they receive an ample compensation by the sacrifices which are made by other States for their benefit—and that those very things which they give up will operate to their advantage through the medium of the general interest.—In addition to these considerations it should be remembered that a constitutional door is open for such amendments as shall be thought necessary by nine States.—When I reflect upon these circumstances I am surprized to find that any person who is acquainted with the critical state of our public affairs, and knows the variety of views, inter[e]sts, feelings and prejudices which must be consulted and conciliated in framing a general Government for these States, and how little propositions in themselves so opposite to each other, will tend to promote that desirable end, can wish to make amendments the ultimatum for adopting the offered system.

I am very glad to find that the opposition in your State, however formidable it has been represented, is, generally speaking, composed of such characters as cannot have an extensive influence; their fort[e], as well as that of those of the same class in other States seems to lie in misrepresentation, and a desire to inflame the passions and to alarm the fears by noisy declamation rather than to convince the understanding by some arguments or fair and impartial statements—Baffled in their attacks upon the constitution they have attempted to vilify and debase the Characters who formed it, but even here I trust they will not succeed.—Upon the whole I doubt whether the opposition to the Constitution will not ultimately be productive of more good than evil; it has called forth, in its defence, abilities (which would not perhaps have been otherwise exerted) that have thrown new lights upon the science of Government, they have given the rights of man a full and fair discussion, and have explained them in so clear and forcible a manner as cannot fail to make a lasting impression upon those who read the best publications on the subject, and particularly the pieces under the signature of Publius.<sup>4</sup>—There will be a greater weight of abilities opposed to the system in the convention of this State than there has been in any other, but notwithstanding the unwearied pains which have been taken, and the vigorous efforts which will be made in the Convention to prevent its adoption, I have not the smallest doubt but it will obtain here.—

I am sorry to hear that the College in your neighbourhood is in so declining a state as you represent it, and that it is likely to suffer a farther injury by the loss of Dr. Nisbet<sup>5</sup> whom you are afraid you shall not be able to support in a proper manner on account of the scarcity

of Cash which prevents parents from sending their Children hither. This is one of the numerous evils which arise from the want of a general regulating power, for in a Country like this where equal liberty is enjoyed, where every man may reap his own harvest, which by proper attention will afford him much more than [i.e., than] what is necessary for his own consumption, and where there is so ample a field for every mercantile and mechanical exertion, if there cannot be money found to answer the common purposes of education, not to mention the necessary commercial circulation, it is evident that there is something amiss in the ruling political power which requires a steady, regulating and energetic hand to connect and control. That money is not to be had, every mans experience tells him, and the great fall in the price of property is an unequivocal, and melancholy proof of it; when, if that property was well secured—faith and justice well preserved—a stable government well administered,—and confidence restored,—the tide of population and wealth would flow to us, from every part of the Globe, and, with a due sense of the blessing, make us the happiest people upon earth—

1. FC, Washington Papers, DLC. At the end of the letterbook copy of this letter, which was entered after the letters for December 1788, Washington's secretary noted: "This preceding letter dated in April was not given to be recorded until after those for the year 1788 had been entered—which is the reason of it being in this place."

2. For the complete text of the letter, see CC:543, and for a brief excerpt from it, see RCS:Va., 385.

3. Washington left Philadelphia and the Constitutional Convention on 18 September. His letter to Armstrong has not been located.

4. For a discussion of the "Publius" essays that were sent to Washington, some of which he had reprinted in newspapers, see "The Republication of The Federalist in Virginia," 28 November 1787–9 January 1788 (RCS:Va., 180–83).

5. Dr. Charles Nisbet was president of Dickinson College in Carlisle, Pa.

### Henry Knox to Jeremiah Wadsworth New York, 27 April (excerpt)<sup>1</sup>

... The recent information from Virginia is highly flattering—By a statement which I have seen of all the Counties excepting eight, the result is thus,

Federals.	88
Neutrals	3
Against	66
	<u>157<sup>2</sup></u>

One of the neutrals is Colo Carringtons Brother the Cheif Justice who will certainly be for it as will his colleague who is another neutral in the statement<sup>3</sup>—

The eight Counties (Kentucky) not returned are supposed to be

mostly for it—at any rate they will be equal which will give a very decisive majority—This is *more than was expected*—Mr Mad-n writes that, the weight of ability and character on the federal side far outweigh those of the Antis—this however as it respects him to be a secret. . . .

1. RC, Wadsworth Papers, Connecticut Historical Society. This letter was addressed to Wadsworth at Hartford, Conn., where he had returned after serving in Congress until 31 March. Knox responds to several letters that Wadsworth had written to him between 17 and 23 April. In the 17 April letter, Wadsworth speculated that neither George Mason nor William Grayson would be “very influential in Virginia” (Knox Papers, MHi). Some time in May, Wadsworth, writing from Hartford, answered Knox’s letter of 27 April, stating that “I am highly pleased with the news from Virginia” (*ibid.*). A heavily edited excerpt from Knox’s 27 April letter—published in the Boston *Massachusetts Centinel* on 7 May—is printed immediately below.

2. The “statement” that Knox mentions was probably one that was received from Virginia by David Henley, then in New York City as a commissioner to help settle Virginia’s claims against the United States for the expenses incurred in defending and maintaining the Northwest Territory before Virginia ceded it to Congress. The totals that Henley obtained were: 85 Federalists, 66 Antifederalists, and 3 Neutrals (see David Henley to Samuel Henley, 28 April, “General Commentaries on the Election of Convention Delegates,” April–June, II above).

3. Paul Carrington and county clerk Thomas Read, brothers-in-law, represented Charlotte County. Carrington voted to ratify the Constitution; Read voted against it. The newspaper version of Knox’s letter, printed immediately below, garbled the report on Paul Carrington.

### Newspaper Version of Henry Knox’s Letter to Jeremiah Wadsworth, 27 April<sup>1</sup>

A letter from a gentleman of the first distinction and information in New-York, dated the 27th ult. says,

“Returns are received from all the counties in *Virginia*, excepting eight in Kentucky. The federalists are the most numerous, and their abilities and characters the most weighty.

“This is the statement, which has been received from Virginia.

Federalists	88
Antis	66
Neutrals	3

“Those stated as neutrals will be for it—one of them being Col. Carrington, brother to the Chief Justice,<sup>2</sup> and another his colleague.

“It is said, that a majority of the eight counties not returned will be for it—but that at least an equal number may be depended on.

“Maryland Convention is in session—and a majority in favour of the Constitution.”

1. *Massachusetts Centinel*, 7 May. This version of Knox’s letter was also printed in the Boston *Independent Chronicle* on 8 May with an additional paragraph on New York. By 15 May the paragraphs on Virginia were reprinted six times: Mass. (4), N.H. (1), R.I. (1).

2. An incorrect reference to Colonel Edward Carrington, brother of Virginia Chief Justice Paul Carrington, whom Knox referred to as neutral. (See Knox to Wadsworth, 27 April, immediately above.)

**George Washington to James McHenry**  
**Mount Vernon, 27 April<sup>1</sup>**

Not having sent to the Post office for several days your favor of the 20th. inst. did not get to my hand till last night. I mention this circumstance as an apology for my not giving it an earlier acknowledgment.<sup>2</sup>—

As you are pleased to ask my opinion of the consequences of an adjournment of your Convention until the meeting of ours, I shall tho' I have meddled very little in this political dispute (less perhaps than a man so thoroughly persuaded as I am of the evils and confusions which will result from the rejection of the proposed Constitution, ought to have done) give it as my sincere and decided opinion that the postponement of the question would be tantamount to the final rejection of it—that the adversaries of the new Constitution [in] Virginia and Maryland view it in this light—and the[y] will pass [i.e., press] for the accomplishment of this measure as the de[r]nier resort.—I have very good reason to believe [that] to adduce arguments in support of this opinion is as unnecessary as they would be prolix—They are obvious,—and will occur to you on a moments reflection.

Tho' the period to which the adjournment in new Hampshire was fixed, no respect to the meeting of the Convention in this State, but was the effect, *solely* of local circumstances within itself, yet, the opposition *here* ascribe it wholly to complaisance towards Virginia—Make great use of it and undertake to pronounce that all the States thereafter whose Convention were to precede hers will pursue the same line of Conduct, and of course that those which are to follow will receive the ton from it—Should Maryland fulfil this p[r]ognostic South Carolina may indeed be staggered and the prediction of the foes to the Constitution will thereby be realized—for the assertion so far as it respects North Carolina may with some truth I believe be applied while the opposition in New York it is well know[n] will avail itself of every pretext for rejection.

The sentiments of the Western district of this State, are not yet brought to my view—Independently thereof the Majority, so far as the opinions of the Delegates are know[n] or presumed is in favor of the adoption and is encreasing but as the parties from report are pretty equally poised a small matter cast into either scale would give it the preponderancy—Decisions, or indecisions then with you, will in my



opinion, determine the fate of the Constitution, and with it, whether peace and happiness—or discord and confusion is to be our lot.—The fœderalests here see and deprecate the idea of the latter, and there opponents doing all they can to encouraging it as their last hope. Thus stands the matter in my eyes at present.—

1. FC, Washington Papers, DLC. McHenry (1753–1816), a Baltimore merchant and Washington's secretary from 1778 to 1780, served in the Maryland Senate, 1781–86, and in Congress, 1783–85. He signed the Constitution in the Constitutional Convention and voted for ratification in the Maryland Convention on 26 April.

2. McHenry's 20 April letter, written just before he left to attend the Maryland Convention, reads: "Your election for members of convention being over must have furnished data by which to form an opinion of the probable fate of the constitution in your State. I wish you to favor me with a line on this subject, and whether you think an adjournment of our convention would operate with yours against its adoption. Our opposition intend to push for an adjournment under the pretext of a conference with yours respecting amendments. As I look upon such a step to amount to a rejection in both States I shall do every thing in my power to prevent it. Your sentiments may be useful. You will be kind enough therefore if you have leisure, to write to me at Annapolis whither I shall go in the morning. Present appearances are flattering; but we should be provided with the means of guarding against any change" (Washington Papers, DLC).

**Cyrus Griffin to James Madison**  
**New York, 28 April (excerpts)<sup>1</sup>**

I am favored by your friendly letter of april the 10th.<sup>2</sup>

how it happened that No. 69 of publius should have been omitted I can hardly imagine; the neglect shall be done away if any acquaintance or the printer are in possession of that paper.<sup>3</sup> . . .

I am very sorry to hear that your calculations render the adoption of the constitution so uncertain—I did once think that my conclusion upon the matter was erroneous—but alas! my dear Sir, without a change of opinion when the members assemble I fear the system will be lost; however if it shall depend upon Kentucky Brown is determined to exert all his Influence in favor of it.

This morning your letter is sent to Charleston by a proper conveyance.<sup>4</sup>

my two last packets to you contained letters from Europe—by this post I do myself the pleasure to enclose others, and the paper of today. . . .

Colonel Carrington has gotten among us again—but does not seem to be in good spirits—whether from love matters, or from the loss of his election in Virginia,<sup>5</sup> or from what other Cause I do not know. . . .

1. RC, Madison Papers, DLC. Printed: Rutland, *Madison*, XI, 31–32.

2. This letter has not been located.

3. For more on the essays of *The Federalist* that Griffin had been forwarding to

Madison since the latter left New York City, see Madison to George Nicholas, 8 April, note 10 (above). *The Federalist* 69 (number 70 in the book version) had been printed in the New York *Independent Journal* on 15 March (CC:619).

4. For this letter, which Madison had asked Griffin to forward, see Nicholas to Madison, 5 April, note 2, and Madison to George Washington, 10 April, note 5 (both above).

5. For Carrington's defeat, see Powhatan County Election (II above).

### Richard Henry Lee to Samuel Adams Chantilly, 28 April<sup>1</sup>

Your favour of December 3d, in the last year,<sup>2</sup> reached me the last of January following, and it should have been answered with my thanks long since, if the uncommon badness of the winter, stopping all communication, had not prevented. Your sentiments on the new political structure, are, in my mind, strong and just. Both reason and experience prove, that so extensive a territory as that of the United States, including such a variety of climates, productions, interests; and so great difference of manners, habits, and customs; cannot be governed in freedom—until formed into states, sovereign, *sub modo*, and confederated for the common good. In the latter case, opinion founded on the knowledge of those who govern, procures obedience without force. But remove the opinion, which must fall with a knowledge of characters in so widely extended a country, and force then becomes necessary to secure the purposes of civil government; hence the military array at Kamtschatka, at Petersburg, and through every part of the widely extended Russian empire.<sup>3</sup> Thus force, the parent and the support of tyranny, is demanded for good purposes, although for ever abused to bad ones—that a consolidated, and not a federal government, was the design of *some*, who formed this new project, I have no doubt about. The dazzling ideas of glory, wealth, and power uncontrolled, unfettered by popular opinions, are powerful to captivate the ambitious and the avaricious. With such people, obedience resulting from fear, the offspring of force, is preferable to obedience flowing from esteem and confidence, the legitimate offspring of the knowledge that men have of wisdom and virtue in their governors; and, above all, from the conviction that abuses may be rectified by the substantial checks that political freedom furnish. Massachusetts, I see, has adopted the plan; but proposes to insist perseveringly on amendments.<sup>4</sup> If it were permitted an individual to question so enlightened an assembly, I would ask, why submit to a system requiring such amendments, and trust to creatures of our own creation, for the correcting of evils in it that threaten the destruction of those ends for which the system was formed? The fear of greater evils has been stated: but I cannot help considering such fears as being generated by design upon weakness.

The objections to the present system, if accurately considered, will, I believe, be found to grow out of those temporary pressures, created by a long and expensive war, which time and prudence may remove. But, though it were admitted that some amendments to the present confederation would better promote the ends designed by it, why, for that reason, exterminate the present plan, and establish on its ruins another, so replete with power, danger, and hydra-headed mischief? The Massachusetts amendments are good, so far as they go. The first, third, and fourth amendments are well contrived to keep in existence the state sovereignties; and the first particularly proper for securing liberty from the abuse of construction, which the new plan most amply admits of. But why, my dear friend, was the provision in your seventh proposition of amendment, confined to causes between citizens of different states, since the reason applies to suitors of every country, and foreigners will be more apt than our own citizens to abuse, in the way, which, that part of the proffered plan permits, and which this amendment of Massachusetts is designed to prevent? England and Scotland are united for every good purpose of defence and offence, yet a foreigner cannot sue a resident Scotsman in England for debt contracted in Scotland: nor will any foreign nation upon earth grant a similar privilege to our citizens over theirs, of calling their people from their own countries to answer demands against them—the fixt idea of all the European nations being, that strangers are not to have privileges in their own country superior to what their own subjects enjoy.

1. Printed: Richard H. Lee, *Memoir of the Life of Richard Henry Lee, and His Correspondence* . . . (2 vols., Philadelphia, 1825), II, 86–87. “Chantilly” was Lee’s Westmoreland County plantation.

2. CC:315.

3. The Kamchatka Peninsula is bordered by the Bering Sea; St. Petersburg (now Leningrad) is on the Baltic Sea opposite Finland. Thus, Lee is referring to Russia, from one end to the other.

4. For the amendments proposed by the Massachusetts Convention on 6 February, see CC:508.

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

. . . The Convention[s] of Six States only have as yet accepted the new Constitution. No one has rejected it. It is believed that the Convention of Maryland, which is now in session; and that of South Carolina, which is to assemble on the 12th of May, will certainly adopt it. It is, also, since the elections of Members for the Convention have taken place in this State, more general[ly] believed that it will be adopted here than it was before those elections were made. There will,

however, be powerful and elequent speeches on both sides of the question in the Virginia Convention, but as Pendleton, Wythe, Blair, Madison, Jones, Nicholas, Innis and many other of our first characters will be advocates for its adoption, you may suppose the weight of abilities will rest on that side. Henry and Masson are its great adversaries—The Governor, if he opposes it at all will do it feebly.—

On the General Merits of this proposed Constitution, I wrote to you, some time ago, my sentiments pretty freely. That letter had not been received by you, when you addressed to me the last of yours which has come to my hands.<sup>2</sup> I had never supposed that perfection could be the result of accomodation and mutual concession. The opinion of Mr. Jefferson & yourself is certainly a wise one, that the Constitution ought by all means to be accepted by nine States before any attempt should be made to procure amendments. For, if that acceptance shall not previously take place, men's minds will be so much agitated and soured, that the danger will be greater than ever of our becoming a disunited People. Whereas, on the other hand, with prudence in temper and a spirit of moderation, every essential alteration, may in the process of time, be expected.

You will doubtless, have seen, that it was owing to this conciliatory and patriotic principle that the Convention of Massachusetts adopted the Constitution in toto;—but recommended a number of specific alterations and quieting explanations, as an early, serious and unremitting subject of attention. Now, although it is not to [be] expected that every individual, in Society, will or can ever be brought to agree upon what is, exactly, the best form of government; yet, there are many things in the Constitution which only need to be explained, in order to prove equally satisfactory to all parties. For example: there was not a member of the convention, I believe, who had the least objection to what is contended for by the Advocates for a *Bill of Rights* and *Tryal by Jury*. The first, where the people evidently retained every thing which they did not in express terms give up, was considered nugatory as you will find to have been more fully explained by Mr. Wilson<sup>3</sup> and others:—And as to the second, it was only the difficulty of establishing a mode which should not interfere with the fixed modes of any of the States, that induced the Convention to leave it, as a matter of future adjustment.

There are other points on which opinions would be more likely to vary. As for instance, on the ineligibility of the same person for President, after he should have served a certain course of years. Guarded so effectually as the proposed Constitution is, in respect to the prevention of bribery and undue influence in the choice of President: I

confess, I differ widely myself from Mr Jefferson and you, as to the necessity or expediency of rotation in that appointment. The matter was fairly discussed in the Convention, & to my full convictions; though I cannot have time or room to sum up the arguments in this letter. There cannot, in my Judgment, be the least danger that the President will by any practicable intrigue ever be able to continue himself one moment in office, much less perpetuate himself in it—but in the last stage of corrupted morals and political depravity: and even then there is as much danger that any other species of domination would prevail. Though, when a people shall have become incapable of governing themselves and fit for a master, it is of little consequence from what quarter he comes.

Under an extended view of this part of the subject, I can see no propriety in precluding ourselves from the services of any man, who on some great emergency, shall be deemed, universally, most capable of serving the Public.—

In answer to the observations you make on the probability of my election to the Presidency (knowing me as you do) I need only say, that it has no enticing charms, and no fascinating allurements for me.<sup>4</sup> However, it might not be decent for me to say I would refuse to accept or even to speak much about an appointment, which may never take place: for in so doing, one might possibly incur the application of the moral resulting from that Fable, in which the Fox is represented as inveighing against the sourness of the grapes, because he could not reach them. All that it will be necessary to add, my dear Marquis, in order to shew my decided predelection, is, that, (at my time of life and under my circumstances) [t]he encreasing infirmities of nature and the growing love of retirement do not permit me to entertain a wish, beyond that of living and dying an honest man on my own farm. Let those follow the pursuits of ambition and fame, who have a keener relish for them; or who may have more years, in store, for the enjoyment! . . .

P.S. May 1st.—

Since writing the foregoing letter, I have received Authentic Accounts that the Convention of Maryland have ratified the new Constitution by a Majority of 63 to 11.—

1. FC, Washington Papers, DLC. Printed: Fitzpatrick, XXIX, 475–80. For letters that Washington wrote to two other French wartime comrades, the Comte de Rochambeau and the Marquis de Chastellux, on 28 April, and 25 April–1 May, respectively, see *ibid.*, 474–75, 483–86.

2. See Washington to Lafayette, 7 February (CC:509), and Lafayette to Washington, 4 February (CC:Vol. 2, p. 501).

3. See James Wilson's 6 October speech before a Philadelphia public meeting (CC:134).

4. On 1 January Lafayette wrote Washington that "My other Comfort is that You Cannot Refuse Being Elected President. . . . But in the Name of America, of Mankind at large, and Your Own fame, I Beseech You, my dear General, Not to deny Your Acceptance of the office of President for the first Years—You only Can Settle that Political Machine, and I foresee it Will furnish An Admirable Chapter in Your History" (CC:Vol. 2, p. 492).

### **Gouverneur Morris to George Washington Richmond, 29 April (excerpt)<sup>1</sup>**

I cannot prevail on myself to omit the present Occasion of offering my Respects, altho I have Nothing to say which is worth your Perusal. It may not however be quite unsatisfactory to receive even Conjecture on a Subject whose Importance is great and whose Situation precludes Evidence. As far as one who avoids much Enquiry can judge I am led to decide that the Opposers to the new Constitution are fewer and more feeble than they were in this Quarter And would almost venture to predict that if S. Carolina and Maryland shall be tolerably unanimous in the Adoption particularly the latter the Convention of this State will not long hesitate. I am mistaken if some Leaders of Opposition are not more solicitous in the present Moment how to make a good Retreat than how to fight the Battle. It is you know a sad Thing for a great and deep Politician to make a great Blunder and fall in a deep Ditch and yet this may easily happen when Men walk on *bad Ground*. . . .

1. RC, Washington Papers, DLC. Morris (1752–1816), a lawyer, represented New York in Congress in 1778 and 1779 and signed the Articles of Confederation. He moved to Pennsylvania in 1779 and represented that state in the Constitutional Convention, where he was one of the most frequent speakers in debate and where he signed the Constitution.

### **The Society of Western Gentlemen Revise the Constitution Virginia Independent Chronicle, 30 April, 7 May (Extra)**

On 8 March Antifederalist Arthur Campbell of Washington County notified Francis Bailey, the Antifederalist editor of the Philadelphia *Free-man's Journal*, that he was having forwarded to him (via Adam Orth of Lancaster County, Pa.) "a revised Copy" of the Constitution. Campbell said that this revision was "the work of a Society of Western Gentlemen, who took this method to investigate and understand the piece & to some of them it has lately been hinted, that the most of the pieces wrote for and against the Constitution, were rather declamatory, and bewildered common readers in the perusal; but by our mode it may be shewn at one view, what is deemed right or what is wrong."

Speaking for the Society, Campbell asked Bailey to edit the revised Constitution and to insert it on the first page of his newspaper, "embellished with proper Capitals and a neat type." He thought that it would have to be printed in two installments. The Society also wanted Bailey to ask the editor of the widely circulated Philadelphia *American Museum* to publish the revised Constitution (RCS:Va., 472-73).

On 9 March, Campbell wrote Adam Orth and sent him a copy of the revised Constitution, which included a declaration of rights. Campbell had changed his mind about newspaper publication; he now believed that the revision should be printed as a pamphlet that would be circulated "especially in Pennsylvania, N. York and Virginia." He hoped that either two or three printers, or Pennsylvania's Antifederalists, might assume the cost of publication. Campbell thought that 500 copies forwarded "to a trusty correspondent in Petersburg Virginia would sell fast." He asked Orth to discuss the matter with such prominent Western Pennsylvania Antifederalists as William Findley, Robert Whitehill, John Smilie, and James McLene. Campbell also hoped that Dr. John Ewing of Philadelphia, a Presbyterian minister and Provost of the University of Pennsylvania, might revise the Society's work. He also believed that the proposed Declaration of Rights would please most people (RCS:Va., 473-74). Orth apparently informed Philadelphia's Antifederalist leaders because the letter that he received from Campbell is in the papers of George Bryan, the city's principal Antifederalist. (The Society of Western Gentlemen's Declaration of Rights appears to have been taken largely from the Virginia Declaration of Rights of 1776 [RCS:Va., 530-31]).

Neither the Society's revised Constitution nor its Declaration of Rights was published in the Philadelphia *Freeman's Journal*. Instead, they were printed in two installments in the *Virginia Independent Chronicle* on 30 April and 7 May (extraordinary). (The Declaration of Rights and the revision of Article I appeared on 30 April, Articles II-VII on 7 May.) The entire proposed Declaration of Rights and the revised portions of the original Constitution are printed here. Arthur Campbell turned to the *Virginia Independent Chronicle* again on 18 June, when it published his Antifederalist article signed "Many" (V below).

*Summary of Alterations Proposed in the  
Revised Constitution*

1. Preamble eliminated and replaced by Declaration of Rights.
- Article I.
2. Representatives to be elected annually.
  3. Indians and "three-fifths clause" deleted in apportioning representation and taxation.
  4. Representatives not to exceed one for every 20,000 inhabitants.
  5. Senators to be elected triennially and to be ineligible for three succeeding years.
  6. Impeached Senators to be tried by judges of U.S. Supreme Court.
  7. Congress to regulate election of Senators and Representatives only if a state fails to do so.
  8. Salaries of Senators and Representatives to be "moderate."

9. Senators and Representatives totally prohibited from holding a federal civil office.
10. All bills to originate in House. Laws need concurrence of Senate, which may propose amendments to all bills except those raising revenue.
11. President not to have veto power.
12. Freedom of the press to be protected.
13. Congress authorized to appropriate funds for an army for only one year.
14. "Ten Miles square" limitation on size of federal capital eliminated.
15. Elimination of ban on Congress' prohibition of foreign slave trade before 1808 and limit of \$10 import tax on slaves.
16. Congress' power to levy direct taxes eliminated.
17. Poll taxes to be levied only with consent of state legislatures.

#### Article II.

18. President ineligible to serve consecutive terms.
19. When House is called to elect a President, Representatives to vote individually.
20. Salary of President to be "reasonable."
21. Treaties to be approved by two-thirds of both houses.

#### Article III.

22. Federal judges to be appointed to seven-year terms and to be eligible for successive appointments.
23. Suits of foreigners against states or citizens thereof eliminated from jurisdiction of federal judiciary.
24. Jury trial extended to civil cases.

#### Article IV.

25. New states to be admitted if they have "a suitable extent of territory" and population equal to least populous state.
26. Elimination of prohibition on creation of a new state from territory within jurisdiction of an existing state.
27. Only state legislatures may request military assistance of United States.

#### Article V.

28. Congress to call a constitutional convention on application of majority of states.
29. Proposed amendments to be adopted when approved by two-thirds of states.
30. Deletion of prohibition of amendments dealing with foreign slave trade before 1808 and equal representation of states in Senate.

#### Article VI.

31. Proposed declaration of rights to be part of Constitution and to be "considered as fundamental laws, not to be violated, on any pretence whatever."
32. Religious test to be required for officeholding, affirming "a belief in the one only true God, who is the rewarder of the good, and the punishment of the evil."



## Article VII.

33. Constitution to go into effect in all states after conventions of states with two-thirds of citizens of the United States have ratified it.

The conflated text printed below was constructed by comparing the revised Constitution with the engrossed Constitution (RCS:Va., 543-54). Only those parts of the Constitution in which the Society made significant changes are printed. The text is set as follows: (1) retained parts of the engrossed Constitution are set in roman type; (2) deletions from the engrossed Constitution are set in lined-out type; and (3) additions are set in italic type. The complete text of the revised Constitution is in Mfm:Va.

The FEDERAL CONSTITUTION amended: or, an ESSAY to make it more conformable to the sense of a majority of the Citizens of the United States.

A DECLARATION of RIGHTS, or  
Fundamentals of Republican Government.<sup>1</sup>

Whereas the happiness of mankind, essentially depends upon the principles of government, which have been adopted, or may gradually be received by the societies in which they live; and whereas the fundamental rules of a civil society, have the same tendency to encrease the virtuous dispositions of good Governors, and restrain the vices of bad ones, as any other principles of morality have to form the manners and characters of individuals:—Therefore we the people of the United States, by our representatives in full and free convention assembled have maturely resolved on the following DECLARATION of RIGHTS, as the basis of our government.

1. That all men are by nature free and independent, and have certain inherent and unalienable rights, namely the enjoying and defending life and liberty; acquiring, possessing, and protecting property, and pursuing and obtaining happiness and safety.

2. That the duty of worshipping Almighty God, of enquiring after, and possessing the truth, according to the dictates of conscience, is equally incumbent on all mankind: That for the more general diffusion of benevolence, hospitality, and undissembled honesty, among all ranks of people, the free exercise and enjoyment of religious profession, and worship without *preference*, shall forever hereafter be allowed within the United States.

3. That the nature and divine end of all power, is to promote the happiness of mankind; that all civil power is vested in, and derived from the people; all magistrates, and rulers, and their trustees and deputies, and are at all times accountable to them.

4. That the best form of government, is that which will produce the greatest common good, with the least danger, trouble, and expence, to individuals, and will most effectually guard against mal-administra-

tion; and when any government is found inadequate to these purposes, the people have a right to alter or abolish the same.

5. That no man, or set of men, are entitled to exclusive or separate emoluments or privileges from the community, but in consideration of public services; wherefore no title or place of honor, or profit, should be hereditary.

6. That the freedom of the people essentially depends on their making their own laws. Therefore all elections ought to be frequent and free, and all men having sufficient evidence of permanent common interest with an attachment to the community, have the right of suffrage: inequality, and all kinds of restraint, bribery and corruption in elections, is destructive of freedom, and ought to be guarded against.

7. That every individual in society has a right to be protected by it, in the enjoyment of life, liberty, property, and reputation, and ought to find a certain remedy against all injuries, or wrongs, obtaining his right freely, without purchase, completely without denial, and promptly without delay, according to law.

8. That in all capital, or criminal prosecutions, every person has a right to be heard by himself, or his council, to demand the cause and nature of his accusation, to be confronted with the accusers and witnesses, to call for evidence in his favor, and a speedy public trial by an impartial jury of the vicinage, without whose consent, he cannot be found guilty: nor can he be compelled to give evidence against himself, nor can any man be deprived of his liberty, but by the laws of the land or judgment of his peers.

9. That excessive bail ought not to be required, nor excessive fines imposed, nor punishments inflicted exceeding the nature of the crime; for if punishments were proportioned to crimes, humanity, instead of pleading for the criminal, would call for their execution.

10. Every person has a right to hold himself, his house, papers, and possessions free from search or seizure, therefore general warrants to seize any person or his property, without evidence of an act committed, and a particular description of his offence, are grievous and oppressive and ought not to be granted.

11. That the people have a right to the freedom of speech, of writing, and publishing their sentiments; therefore printing presses shall not be subject to restraint, other than liableness to legal prosecution, for false facts printed and published.

12. Laws made to punish for actions which have not been declared crimes, by preceding laws, are inconsistent with the fundamental principles of a free government.

13. The people have a right to keep and bear arms, for the national

defence; standing armies in time of peace are dangerous to liberty, therefore the military shall be subordinate to the civil power.

14. The community have a right to require of every individual his personal services when necessary for the common defence, and to demand a just and equal portion of his property for public uses in consideration of the protection which he enjoys.

15. In order to preserve the blessings of liberty, frequent and stated recurrence must be had to fundamental principles, and a firm adherence must be maintained, to justice, moderation, temperance, frugality, industry, and virtue.

[The Revised Constitution (excerpts)]

Article. I.

Section. 2. The House of Representatives shall be composed of Members chosen ~~every second Year~~ *annually* by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature. . . .

Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, ~~including all those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons.~~ The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct. The Number of Representatives shall not exceed one for every ~~thirty~~ *twenty* Thousand. . . .

Section. 3. The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for ~~six~~ *three* Years; ~~and be ineligible the three succeeding years,~~ and each Senator shall have one Vote. . . .

The Senate shall have the ~~sole~~ Power to try ~~all~~ Impeachments *except against members of their own body, who shall be tried by the judges of the supreme court.* . . .

Section. 4. The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, ~~except as to the Places of chusing Senators~~ *Provided the legislatures aforesaid, omit passing laws for that purpose.*

Section. 6. The Senators and Representatives shall receive a *moderate* Compensation for their Services,<sup>2</sup> to be ascertained by Law, and paid out of the Treasury of the United States. . . .

No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States ~~which shall have been created, or the Emoluments whereof shall have been increased during such time;~~ and no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office.

Section. 7. All Bills for raising Revenue *laws* shall originate in the House of Representatives, ~~but the Senate may propose or concur with Amendments as on other Bills: to be concurred with, or rejected by the senate, or to be amended with consent of the house of representatives, except bills for raising revenue, which in no instance shall be altered by the senate; but wholly approved or rejected.~~<sup>3</sup>

Every Bill which shall have passed the House of Representatives and the Senate shall, before it become a Law, be presented to the President of the United States; If he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law. But in all such Cases the Votes of both Houses shall be determined by yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law.

Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill.

Section. 8. The Congress shall have Power. . . .

*To pass laws, to encourage, and secure, the use and freedom of the press.*<sup>4</sup> . . .

To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than ~~two~~ *one* Years;

To exercise exclusive Legislation in all Cases whatsoever, over such District, (~~not exceeding ten Miles square~~) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings;—And. . . .

~~Section. 9. The Migration or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight, but a Tax or duty may be imposed on such Importation, not exceeding ten dollars for each Person. . . .~~

~~No Capitation, or other direct, Tax shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be taken with the consent of the legislatures of the different states. . . .~~

#### Article. II.

Section. 1. The executive Power shall be vested in a President of the United States of America. He shall hold his Office during the Term of four Years, *and be ineligible the four succeeding years*, and, together with the Vice President, chosen for the same Term, be elected, as follows . . .

The Electors shall meet in their respective States and vote by Ballot for two Persons, of whom one at least shall not be an Inhabitant of the same State with themselves. And they shall make a List of all the Persons voted for, and of the Number of Votes for each; which List they shall sign and certify, and transmit sealed to the Seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the Presence of the Senate and House of Representatives, open all the Certificates, and the Votes shall then be counted. The Person having the greatest Number of Votes shall be the President, if such Number be a Majority of the whole Number of Electors appointed; and if there be more than one who have such Majority, and have an equal Number of Votes, then the House of Representatives shall immediately chuse by Ballot one of them for President; and if no Person have a Majority, then from the five highest on the List the said House shall in like Manner chuse the President. ~~But in chusing the President, the Votes shall be taken by States, the Representation from each State having one Vote; A quorum~~

for this Purpose shall consist of a Member or Members from two thirds of the States, and a Majority of all the States shall be necessary to a Choice. In every Case, after the Choice of the President, the Person having the greatest Number of Votes of the Electors shall be the Vice President. But if there should remain two or more who have equal Votes, the Senate shall chuse from them by Ballot the Vice President. . . .

The President shall, at stated Times, receive for his Services, a *reasonable* Compensation. . . .

Section. 2. . . . He shall have Power, by and with the ~~Advice and Consent of the Senate~~, *concurrence of Congress* to make Treaties, provided two thirds of the ~~Senators~~ *members* present concur. . . .

### Article III.

Section. 1. The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices, ~~during~~ *if of good Behaviour, and for the term of seven years; but may be eligible to be re-appointed at the expiration of every such term;* they shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office.

Section. 2. The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties ~~made, or~~ which shall be made, under their Authority;—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 or Subjects~~. . . .

The Trial of all ~~Crimes~~ *causes*, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State, where the ~~said Crimes shall cause of action arose, or where the crime may have been committed;~~ but when ~~not~~ committed ~~within~~ *without* any of the States, the Trial shall be at such Place or Places as the Congress may by Law have directed.

## Article. IV.

Section. 3. ~~New States may be containing a suitable extent of territory, and a number of inhabitants equal at least to some one of the original states, shall in due time be established in the western country, and admitted by the Congress into this Union; but no new State shall be formed or erected within the Jurisdiction of any other State; nor any State be formed by the Junction of two or more States, or Parts of States, without the Consent of the Legislatures of the States concerned as well as of the Congress.~~

~~The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.~~

Section. 4. The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; and on Application of the Legislature, ~~or of the Executive (when the Legislature cannot be convened)~~ against domestic Violence.

## Article. V.

The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of ~~two thirds~~ a majority of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of ~~three fourths~~ *two-thirds* of the several States, or by Conventions in ~~three fourths~~ *two-thirds* thereof, as the one or the other Mode of Ratification may be proposed by the Congress; ~~Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article; and that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate.~~

## Article. VI.

All Debts contracted and Engagements entered into, *whether by treaty or otherwise, on account of the public*, before the Adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.

*The declaration of rights, be made part of this constitution, and considered as fundamental laws, not to be violated, on any pretence whatever.*

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties ~~made, or~~ which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers; both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no *other* religious Test shall ever be required, ~~as a Qualification to any Office or public Trust under the United States~~ *than a belief in the one only true God, who is the rewarder of the good, and the punishment of the evil.*

#### Article. VII.

The Ratification of ~~the Conventions of nine States, so many of the states, as may contain two-thirds of the citizens of the whole; represented in full and free convention,~~ shall be sufficient for the Establishment of this Constitution, ~~between the States so ratifying the Same as a compact, or perpetual bond of union, for all inhabitants of the United States.~~

1. The proposed Declaration of Rights replaced the U.S. Constitution's Preamble.
2. The Virginia constitution provided that the governor should have "an adequate, but moderate salary" (RCS:Va., 534).
3. This alteration was derived from the Virginia constitution's provision for enacting legislation (RCS:Va., 534).
4. This clause was inserted between clauses 8 and 9, which deal, respectively, with copyrights and inferior courts. On 9 March Arthur Campbell wrote that "the clause in the [revised] Constitution in favour of the Press, may be of more value to them [i.e., printers] than ten thousand copys" (to Adam Orth, RCS:Va., 474).

#### **George Mason to John Francis Mercer Gunston Hall, 1 May (excerpt)<sup>1</sup>**

... From the returns I have seen of the elections here, I think the Convention of Virginia will be so equally divided, that no man can at present form a judgment of what may be the determination. The Federalists, as they improperly style themselves, talk of a considerable majority; but it is notorious that many of them [— —] honor of their cause be it spoken, stick at no falsehood or [— —] to accomplish their



purpose. As soon as any tolerably [— —] judgment can be formed of the politics of our Convention I will not fail to communicate them to you. . . .

1. Printed: Kate Mason Rowland, *The Life of George Mason, 1725-1792* . . . (2 vols., New York and London, 1892), II, 212-14. The letter was addressed to Mercer at Annapolis, Md.

**George Washington to Benjamin Lincoln  
Mount Vernon, 2 May (excerpts)<sup>1</sup>**

I have now to acknowledge the receipt of your favor of the 19th of March, which should have been done at an earlier period had any thing transpired in these parts which was worth communicating. I can now, with pleasure, inform you that the State of Maryland adopted the proposed Constitution last monday by a very large majority; this you will undoubtedly have announced by the publick papers before this letter reaches you, but that State will not receive the sole benefit of its adoption, it will have a very considerable influence upon the decision in Virginia, for it has been strongly insisted upon by the opponents in the lower & back Counties in this State that Maryland would reject it by a large majority;—the result being found so directly opposite to this assertion will operate very powerfully upon the sentiments of many who were before undecided and will tend to fix them in favor of the Constitution; it will, if I am not misinformed, have this effect upon many who are chosen to the Convention and who have depended, in a great measure, upon the determination of Maryland to confirm their opinion.—But, exclusive of this influence, the most accurate returns of the members of the Convention, with their sentiments, so far as they were known, annexed, gave a decided majority in favor of the Constitution, and the prevailing opinion is, that it gains advocates daily. I have never, for my own part, once doubted of its adoption here, and if I had at any time been wavering in my opinion the present appearances & concurrent information would have completely fixed it.

I am sorry to find by your letter that there is so much of the spirit of insurrection yet remaining in your State, and that it discovered itself so strongly in your last Assembly,<sup>2</sup> but I hope the influence of those Gentlemen who are friendly to the proposed Constitution, and the conciliatory disposition which was shewn by many of the minority in your Convention will so far pervade the State as to prevent that factious spirit from gaining ground. . . .

P.S. Enclosed is a letter from your young friend.<sup>3</sup>

1. RC, The Original Letters of George Washington to Benjamin Lincoln, Harvard University. This letter, signed by Washington, is in the handwriting of his secretary, Tobias Lear.

2. In his letter of 19 March, Lincoln stated that "An attempt was made by some in the house of representatives, in a proposed answer to the Governours speach, to reprobate the doings of the convention held at Philadelphia and of the one in this State. In order to avoid a greater evil an answer will be omitted." He told Washington that, had the Constitution been submitted to the Massachusetts House of Representatives for ratification, it would have been rejected (Washington Papers, DLC. For a full discussion of the incident in the Massachusetts House of Representatives, see CC:566.).

3. Washington refers to Tobias Lear who also had written Lincoln on 2 May (Lincoln Papers, MHi). In early 1786, Lincoln had recommended Lear to be Washington's secretary.

### **George Washington to Gouverneur Morris Mount Vernon, 2 May (excerpt)<sup>1</sup>**

. . . I have not at any moment, despaired of this States acceptance of the new Constitution and less since the ratification of Maryland by so large and decided a Majority—the *fury* of the opposition, I believe is spent, the grand push was made at the Elections[.] failing of success therein the hopes of its leaders begin to flag and many of them or I am mistaken wish the business was to commence de novo—in which case a different line of March would be taken up by some of them. . . .

1. FC, Washington Papers, DLC. Printed: Fitzpatrick, XXIX, 490. Washington answers Morris' letter of 29 April (above).

### **Caleb Wallace to William Fleming Locust Groves, 3 May (excerpt)<sup>1</sup>**

We have received your sympathetic letter of March the 8th. by Miss M'Bride and one from Mrs. Fleming of the 6th. of April which gave us much consolation, especially as they came from friends whom we are persuaded do realy bear a part of our Affliction.<sup>2</sup> This bereavement and the ill state of health I have been in for some months past have greatly indisposed my mind to political investigations; for which reasons I omitted returning you my sentiments on the proposed form of Continental Government to which you called my attention last fall. But hearing that you have accepted an appointment to our State Convention<sup>3</sup> I shall now attempt a few observations on the interesting subject

As by a Federal Union the independence of the American States was obtained, I have always considered the continuing and perfecting that Confederation equally essential to its permanency and rising glory; therefore the calling a continental Convention was my anxious desire,

and I confess on the first perusal the government they have devised seemed in the main to answer my expectations. Wishing Congress to be invested with ample powers to accomplish all federal purposes, the new System pleased me in this which I thought the most important article; in some other instances my feelings were hurt and my fears alarmed, but being much distressed for our National Faith and security I did not then so fully realize, as I have since done, the danger of introducing greater evils than those from which we had been delivered at the expence of much blood and treasure. How common, how natural is it for narrow minded man by avoiding *Scylla* to fall into *Charybdis*! To say no more in this way our American sages have erred. The complication of powers and prerogatives they have heaped on their Senate President and Vice President are intolerable. Their Judicial Courts in various respects are equally so. Their omitting a Declaration of Rights almost induces me to suspect the virtue of their intentions. And their want of precision in defining the limits of the several departments of their intended Government gives suspicion an ascendancy I wish my charity to possess. I have lately perused Masons Randolph's and Gerry's reasons for dissent<sup>4</sup> with some other writings on the same side of the question, and find myself constrained to embrace their sentiments; only I cannot join in opinion with some of them that by the constitution of gover[n]ment a man should be excluded from office as soon as by experience he is qualified to fill it.

But as a repetition of the remarks that have been made by others cannot be entertaining I shall principally attend to two or three objections that I think deserve consideration and that have not been taken notice of in any of the publications I have seen. (1) Congress are to exercise exclusive legislation over ten miles square; that is to say, they are to exercise absolute dominion over the inhabitants, as by the System this district cannot have the shadow of representation in the government to which they are to be subjected. This from a combination of circumstances will be the most successful nursery of slaves that ever was devised by man: the money, the amusements, and the elegance if not splendor that will centre here must make it very populous. It will be a market where liberty may be sold for a valuable consideration: if these advantages will not be thought an equivalent by some, the honours and emoluments that may be solicited and obtained from government, will, in addition, come up to the price of the bulk of mankind. The sum of the whole is, that these numerous and wealthy slaves will infallibly be devoted to the views of their masters; and having surrendered their own, will always be ready to trample on the rights of free men. This suggests another objection. (2) Numerous

offices of profit and honour will be in the gift of the continental Executive; And on whom will these be generally conferred? No doubt on courtiers. By these officers, or rather creatures of state, the supreme government will be administered and Congressional purposes accomplished without regard to the State governments or feeling for individuals. With the assistance of these two powerful Armies what may not be effected by Congress even though they had not the continental sword and purse at their command. As to the ten Miles square the idea should be execrated as it is dictated by vanity and not by necessity; and the Officers should be recommended by and be actual inhabitants of the respective States in which they are severally to officiate; at least they should be elected by the representatives of the people assembled in Congress; which would in a great measure guard against the evils I have stated, and give the meritorious in the most distant parts of the union some chance for preferment. (3) The third objection more immediately relates to this and the other western parts of the Union. Under this New Government Imports and Exports cannot be taxed nor prohibited without the consent of Congress. This is a restriction that the general good does not absolutely require, but must be ruinous to those whose local situation makes it necessary to discourage foreign superfluities and to encourage home Manufactures. To say that Congress will give every reasonable indulgence; and that individuals will not be restrained from industry nor compelled to purchase gewgaws is little to the purpose, as it is evidently unsafe to depend on one or the other in this Case. If the State Governments are to have an existence, their end must be to guard their communities from evils that may not effect the union in general; and if in any instance these communities are deprived of the power to restrain individuals from doing that which will be injurious to their common interest, so far their Gover[n]ments will be a burthen without an advantage; or I might rather say, they will evidently and materially fall short of their end.

I also wish to say something on the danger of giving Congress an unlimited power of internal taxation. The more I consider it the more I am alarmed. If the circumstances of the union requires the measure I am willing to submit to it as a necessary evil; but if it can in any way be restrained or guarded from abuse, nothing can be more advisable.

You will gather from what I have written that I think the calling another continental Convention should not be delayed, to which I can foresee no impediment but obstinacy. Indeed I am decided in my opinion that the proposed plan of Government should be subjected to a reconsideration for ye. single reason, if no other, that it was done by men who exceeded their Commission, and whatever may be pleaded

in excuse from the necessity of the case, something should certainly be done to disclaim the dangerous president [i.e., precedent] which will otherwise be established. I still hope that an attachment to the independence of America and that love of equal liberty which first gave it existence will silence party heats and cabals and lead to a system that will promise lasting internal security and tranquility to all the members of the union, which ought to be the first object; as external respectability will be an inseperable concomitant. If the event should be otherwise, it will be obvious that the late struggle with Great Britain was excited by ambition and not by virtue, and we may yet have much cause to lament the immense sacrifices we have made in vain. In this case I indulge the hope that Virginia will have spirit to oppose a System of domination though she should be the only dissenting State. By doing this she may be the happy instrument of obliging the others to return to their duty as she was the first that dared to counteract British oppression. If she cannot immediately stop the current of despotism, she may check its rapidity, and keep alive an enquiry that will increase the wisdom and establish the virtue of her own people without subjecting them to greater evils than must attend a willing subjection to a burthensome newfangled Aristocracy. . . .

1. RC, Hugh Blair Grigsby Papers, ViHi.

2. Wallace's young son had died in an accident earlier in the year. (See Wallace to Fleming, 22 March, note 2, *ibid.*)

3. Fleming represented Botetourt in the state Convention, where he voted to ratify the Constitution.

4. For Mason's and Randolph's objections, see RCS:Va., 40-46, 260-75; and for Gerry's, see CC:227-A.

### **Richard Henry Lee to George Mason** **Chantilly, 7 May<sup>1</sup>**

Your son delivered me the letter that you were pleased to write me on the 30th instant,<sup>2</sup> and I have promoted his views, as far as it is in my power at present, by directing the tobacco I had intended to sell in the country, to be put on board his vessel. I am inclined to think, for the reasons assigned by him, that the French market will be as good a one, at least, as any that we can send to.

Give me leave now, dear sir, to make a few observations on the important business that will call you to Richmond next month. It seems pretty clear at present, that four other States, viz. North Carolina, New York, Rhode Island, and New Hampshire, will depend much upon Virginia for their determination on the Convention project of a new constitution; therefore it becomes us to be very circumspect and care-

ful about the conduct we pursue, as, on the one hand, every possible exertion of wisdom and firmness should be employed to prevent danger to civil liberty, so, on the other hand, the most watchful precaution should take place to prevent the foes of union, order, and good government, from succeeding so far as to prevent our acceptance of the good part of the plan proposed. I submit to you, sir, whether, to form a consistent union of conduct, it would not be well for six or eight leading friends to amendments to meet privately,<sup>3</sup> and, having formed the best possible judgment of the members' sentiments from knowledge of the men, to see how far it may be safe to press either for modes of amendment or the extent of amendments, and to govern accordingly. But, certainly, the firmest stand should be made against the very arbitrary mode that has been pursued in some states, that is, to propose a question of absolute rejection or implicit admission. For though it is true that the convention plan looks something like this, yet I think every temperate man must agree that neither the convention, nor any set of men upon earth, have or had a right to insist upon such a question of extremity. To receive the good and reject the bad is too necessary and inherent a right to be parted with. As some subtle managers will be upon the convention, I believe you will find entrapping questions proposed at first as a ground-work of proceeding, which will hamper, confine, and narrow all attempts to proper investigation or necessary amendment, and this will be done under the plausible pretext of losing all by attempting *any* change. I judge that it will be so here, because I observe a similar conduct has been pursued in other places, as in Maryland and Pennsylvania. I trust that such uncandid and dangerous stratagems will be opposed and prevented in the convention of Virginia, and a thorough, particular, and careful examination be first made into all its parts as a previous requisite to the formation of any question upon it. During this process a tolerable judgment may be formed of the sentiments of the generality, and a clue furnished for forming successful propositions for amendment, as the candid friends to this system admit that amendments may be made to improve the plan, but say that these amendments ought to be made, and may be obtained from the new Congress without endangering a total loss of the proposed constitution. I say that those who talk thus, if they are sincere, will not object to this plan, which, as I propose it, [is] something like the proceeding of the convention parliament in 1688, in the form of ratification, insert plainly and strongly such amendments as can be agreed upon, and say, that the people of Virginia do claim, demand, and insist upon these as their undoubted rights and liberties which they mean not to part with; and if these are not

obtained and secured by the mode pointed out in the fifth article of the convention plan, in two years after the meeting of the new Congress, that Virginia shall, in that case, be considered as disengaged from this ratification. Under this proposition a development will be made of the sincerity of those who advocate the new plan, the beneficial parts of it retained, and a just security given to civil liberty. In the fifth 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. By this mode, the new Congress may obtain our amendments without risking the convulsion of conventions, and the friends of the plan will be gratified in what they say is necessary; the putting the government in motion, when, as they again say, amendments may and ought to be obtained. By this mode, too, in all probability, the undetermined States may be brought to harmonize, and the formidable minorities, in the assenting states, may be quieted. By this friendly and reasonable accommodation, the perpetual distrust and opposition, that will inevitably follow the total adoption of the plan, from the state legislatures, may be happily prevented, and friendly united exertions take place. Much reflection has convinced me that this mode is the best that I have had an opportunity of contemplating. I have, therefore, taken the liberty of recommending it to your serious and patriotic attention; in the formation of these amendments, *localities* ought to be avoided as much as possible.

The danger of monopolized trade may be prevented by calling for the consent of three-fourths of the United States on regulations of trade. The trial by jury, in this state, to be insisted on, as it [is] used under our present government, and confining the supreme federal court to the jurisdiction of *law* excluding *fact*. The Massachusetts amendments, except the second, and extending the seventh to foreigners as well as citizens of other States, appear to me to be very good, and for their adoption the aid of that powerful state may be secured.<sup>4</sup> 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 and senate. It does appear to me, that, in the present temper of America, if the Massachusetts amendments, with those suggested by me,<sup>5</sup> being added, and inserted in our ratification as before stated, we may easily agree, and I verily believe that the most essential good consequences would be the result. Affectionately yours,

1. Printed: Richard H. Lee, *Memoir of the Life of Richard Henry Lee and His Correspondence . . .* (2 vols., Philadelphia, 1825), II, 88-90.

2. Not located.

3. For such a meeting of the supporters of amendments, called the "Committee of Opposition" by William Grayson and "our Republican Society" by Patrick Henry (both of them members), see "The Second Attempt at Cooperation between Virginia and New York Antifederalists," 18 May–27 June (below).

4. For the second Massachusetts amendment, see RCS:Va., 732 (note 2). The seventh amendment limited the jurisdiction of the federal judiciary in cases between citizens of different states. The Supreme Court would be restricted to cases worth at least \$3,000; the inferior courts to cases worth at least \$1,500. For the reprinting of the Massachusetts amendments in Virginia, see RCS:Va., 437n; and for the text of the amendments, see CC:508.

5. For Lee's proposed amendments, see RCS:Va., 65–66.

### Delaware Gazette, 7 May<sup>1</sup>

*Extract of a letter from Virginia, dated Rosegill, April 20.*

"The people of this county have done me the honor to chuse me as their representative in the ensuing convention, that will meet the 2d of June, at Richmond. The minds of the people of this county are greatly divided. The principal opposers to the new government, are men high in popular estimation; some of them of first rate talents; indefatigable in spreading their objections, and artful in addressing them in such language, and in such a mode, as is most likely to captivate and delude the vulgar. This, in a great measure they have effected; yet, I trust there is such a fund of plain good sense in this country, that it will not upon this occasion detach itself from the general union, and throw itself into a state, first of imbecility, and then of anarchy: such I am persuaded will be the consequence, should we, in our infatuation, reject the constitution—I approve of it, not so much for its present excellence, as for what it will surely conduct to; a general free government, strength at home, and respectability abroad.—In short, we shall get rid of the present constitution, and that alone would be with me argument enough for the adoption of this, were it not so perfect as it is."

1. The *Delaware Gazette* of 7 May is not extant. This extract of a letter was transcribed from the *Pennsylvania Packet* of 10 May, the first known newspaper to reprint it. Four days later the *Pennsylvania Journal* reprinted it under a 7 May, Wilmington, Del., dateline, thus indicating that it was first printed in the *Delaware Gazette* of 7 May. A third reprinting of the item occurred in the *Charleston Columbian Herald* on 2 June. The *Packet* and the *Herald* noted that the letter was dated "Rosegill, April 20," while the *Journal* said "Rosehill, April 16."

The letter was probably written by Ralph Wormeley, Jr., of "Rosegill," who had been elected to represent Middlesex County in the state Convention, where he voted to ratify the Constitution. Wormeley (1744–1806) also sat in the House of Delegates from June 1788 to December 1790. A critic of the government under the Articles of Confederation, Wormeley wrote a friend from Rosegill in the summer of 1787: "the federal convention are still sitting at Philadelphia, and as it has in its composition men of abilities, experience, and integrity who in opinion and confidence follow we may expect some reform,



and as many imperfections in our government are obvious and superficial, and not difficult to remedy these at least may be done away, if those more latent and deep rooted cannot be eradicated many are interested to keep this body of iniquity from being exposed, and scouted, and these will form a phalanx, yet I will encourage the hope, that the recommendations of wisdom and virtue will prevail over the interested wickedness of the sons of anarchy, and the blood suckers of america" (to John R. Grymes, 25 August, Ralph Wormeley Letterbook, ViU).

### **Pennsylvania Gazette, 7 May<sup>1</sup>**

Every day, says a correspondent, adds to the weighty arguments in favor of the proposed federal constitution. The friends of the American union in Europe and in Kentucke have certainly a belief, that overtures have been made by Great Britain to leading characters on the western waters, to induce the inhabitants of that country to dis sever themselves from their brethren on the Atlantic.<sup>2</sup> This idea has been suggested, no doubt, by the late divisions and distracted politics of our country; and nothing can prevent its being carried into execution but a firm union, a constitution of general government with sufficient powers, and a wise and honest administration. Were we to lose the government now proposed to the people of America, and fall into single and separate states, and the people of the western country were to be seduced into the schemes of Great Britain, miserable would be the situation of Virginia, the Carolinas, and Georgia, on the south, and of New Hampshire and New York on the north. Some of them would be seized by Britain as their outlet to the Atlantic; for they would rather risque a quarrel with a single detached American state, from which they could fear nothing, than hazard a quarrel with the house of Bourbon.

1. This item was reprinted in Winchester in both the *Virginia Centinel* and the *Virginia Gazette* on 21 May and in eighteen other newspapers by 16 August: Vt. (1), Mass. (4), R.I. (1), Conn. (1), N.Y. (2), N.J. (1), Pa. (2), Md. (2), N.C. (2), S.C. (1), Ga. (1).

2. On 1 May the *New York Daily Advertiser* printed an "Extract of a letter from a gentleman of information, on the Frontiers of Virginia, to his friend in this city, dated 19th March, 1788," that stated: "I have lately been informed, that favorable proposals have been made to the Kentuckians, by Great-Britain, in order to induce them to quit our Confederacy.—With respect to the new Constitution, it will be adopted by Virginia, fully, in the first instance; and some amendments may probably afterwards be proposed." This item was reprinted in Winchester in both the *Virginia Centinel* and the *Virginia Gazette* on 21 May and in the *Kentucky Gazette* on 2 August. It also appeared in twenty-one other newspapers by 7 June: N.H. (1), Mass. (5), R.I. (2), N.Y. (4), Pa. (5), Md. (2), N.C. (1), S.C. (1).

### **The First Attempt at Cooperation between Virginia and New York Antifederalists, 8 May–15 October**

On 12 December 1787 the Virginia legislature passed an act providing for the payment of the state convention delegates and "such reasonable expences as may be incurred," if the convention "should deem it nec-

essary to hold any communications with any of the sister states or the Conventions thereof which may be then met." On 27 December the legislature requested Governor Edmund Randolph to transmit this act to the executives and legislatures of the other states. On the same day, Randolph wrote the state executives and enclosed in each letter two copies of the act, one for the executive and the other for the legislature (RCS:Va., 183-93). By this time, ten state legislatures had called ratifying conventions, three of which had already adopted the Constitution. In November, the Rhode Island legislature had refused to call a convention. The legislatures of South Carolina and New York convened in January 1788, and on 19 January and 1 February, respectively, they called conventions.

Governor Randolph's letter of 27 December was probably sent to New York Governor George Clinton at his residence in New York City. It was then forwarded to Clinton in Poughkeepsie, where the legislature was meeting, and where, except for about two weeks, he resided from 3 January to 23 March. (From 12 to 24 January, he was probably in New York City.) On 10 March Governor Clinton informed the Assembly that he had received Governor Randolph's letter and its enclosures, indicating that "it may not be improper to mention that it was not received by me before last Friday evening" (7 March). (Other state executives had received Randolph's letter by 22 January.) Both houses of the legislature read Randolph's letter and its enclosures and ordered that they be turned over to committees of the whole house. The legislature, however, adjourned on 22 March before either house took notice of Virginia's suggestion that the state conventions might want to communicate with each other.

On 8 May, Clinton wrote Randolph complaining about the delay in receiving his letter. Clinton expressed the wish that, on such a matter of "vast Importance" as the Constitution, the people of the several states should communicate with each other. Because Virginia's convention was scheduled to meet before New York's, Governor Clinton expected that the Virginians would take the lead in corresponding with the New Yorkers. Since he had received "no Direction" from his legislature, Clinton's remarks were "expressive" of his own feelings, which he believed were supported by a majority of New Yorkers (below).

Clinton's 8 May letter apparently set the stage for a subsequent invitation to cooperate from the Federal Republican Committee, a group of Antifederalists in and around New York City. Addressed primarily to prominent Antifederalists in states where the Constitution had not yet been ratified, the Federal Republican Committee's circular letter of 18 May requested that a correspondence be opened among supporters of amendments to the Constitution. (See "The Second Attempt at Cooperation between Virginia and New York Antifederalists," 18 May-27 June, below.)

The exact date that Governor Randolph received Governor Clinton's 8 May letter is unknown. "Immediately on receiving" the letter, however, Randolph laid it before the Council of State, requesting an opinion "whether it was of a public or private nature." The Council believed that it was a public letter. Therefore, Randolph felt justified in keeping the letter from the Virginia Convention, which met from 2 to 27 June, because he was obligated to turn it over at the earliest opportunity only to the legislature.

On 23 June the Virginia legislature met in special session. The House of Delegates attained a quorum the next day, and the Speaker laid before it a letter from Randolph, dated 23 June, enclosing five public documents, the last of which was Clinton's letter of 8 May. Randolph's letter and the enclosures "were partly read" and then ordered to lie on the table. On 26 June, the House "resumed the reading" of the letter and its enclosures. Presumably, Clinton's letter was first read by the House at this time—too late to be submitted to the Convention, which had ratified the Constitution the previous day.

State Convention delegate George Mason (who was not a member of the legislature) drafted resolutions that were apparently designed for presentation to the House of Delegates, although they do not appear on the Journals. One resolution affirms that Clinton's letter should have been laid before the state Convention at its first meeting so that the delegates could have considered a communication with the New York Convention. Another resolution calls for the appointment of a committee to ask Randolph (1) why had he not laid Clinton's letter before the Convention; (2) why had he delayed laying the letter before the House until the day after the Convention had ratified the Constitution; and (3) why had his letter of 27 December 1787 and its enclosures taken so long to reach Clinton. (With respect to the second question, Mason appears to have confused the date that Clinton's letter was read with the date that it was laid before the House.)

On 6 August Randolph wrote to Clinton asking him to check the postmark on the 27 December 1787 letter and whether or not Clinton's absence from New York City might have delayed the delivery of the letter (Mfm:Va.). Clinton replied on 4 October that the letter was postmarked at Richmond, but that neither the day nor the month was legible. Although he spent most of January through March in Poughkeepsie, Clinton declared that this would not have delayed the reception of the letter for more than two or three days, because the mail was regularly delivered between New York City and Albany twice a week and Poughkeepsie was on that route. Clinton added that, since the Constitution was in "agitation," letters to him had not been delivered or had been delayed (Mfm:Va.).

On 15 October Richmond postmaster Augustine Davis, acting upon Randolph's request, certified that his records revealed that "a Mail was made up for the Northward" on 27 December, but Davis could not be certain whether or not Randolph's letter to Clinton had been included. However, Davis continued, the letters brought to the post office on 27 December were sent to the stage office that night. On 18 October Randolph filed Davis' certificate and other papers with Archibald Blair, the Keeper of the Public Seal and the clerk of the Council of State, requesting that Blair "keep them in the archives, without putting them on record" (Mfm:Va.).

*Governor George Clinton to Governor Edmund Randolph  
New York, 8 May<sup>1</sup>*

Your Excellency's letter of the 27th. of December, altho' it appears to have been committed to the Post Office at Richmond, did not come to my Hands until the 7th. of March.

The Act inclosed was immediately communicated to the Legislature, but it was after they had passed their Resolutions for calling a Convention and so near the Close of their Sessions that no Order was taken in Consequence of it.—

The System of Government proposed by the federal Convention is an Object of such vast Importance to the Happiness of America that it appears to me essential that the People of the different States cultivate and cherish the most friendly Sentiments towards each other especially during their Deliberations on that interesting Subject.

The Convention of this State are to meet at Poughkeepsie on the 17th. of June to take the proposed System into Consideration and I am persuaded they will with great Cordiality hold a Communication with any Sister State on the important Subject and especially with one so respectable in Point of Importance, Ability and Patriotism as Virginia; I think I may venture to assure your Excellency that the people of this State are disposed to keep up that friendly Intercourse and preserve that Unanimity respecting any great Change of Government which appears to be the Object of the Act of your Legislature and which it is the Duty of every good Man to promote and cherish, and I have no Doubt but that our Convention will possess the same Sentiments—As the Session of your Convention will take Place before that of this State they will I presume commence the Measures for holding such Communications as shall be deemed necessary.

I cannot refrain expressing a Regret that a similar Conduct has not been observed by the States who have already had the proposed System under Consideration—Friendly Communications on the Subject and temperate Discussions would it is to be presumed have had a most happy Tendency in accomodating it much more to the Sentiments and Wishes of the People of America than is likely to be the Case in the Form it is offered by the general Convention and acceded to by some of the States—Should it be adopted by small Majorities in the larger States we cannot reasonably hope it will operate so as to answer the salutary Purposes designed; for I presume it may be laid down as a certain Truth that no Government can be exercised over this Country in its present Condition that is not supported by the Affections and Confidence of the People in general—

As I have no Direction from the Legislature on the Subject of your Communications, your Excellency will be pleased to consider this Letter as expressive of my own Sentiments, but I have at the same time a well founded Confidence that a Majority of the People of the State over which I have the Honor to preside will concur in them.

*Governor Edmund Randolph to the Speaker of the House of Delegates,  
In Council, 23 June (excerpt)*<sup>2</sup>

. . . The inclosed letter from Governor Clinton of New-York is an answer to a short Circular letter, which I wrote to the Executives of the different States, transmitting the Acts of the last Session concerning the Convention. I laid it before the board immediately on receiving it, requesting their opinion, whether it was of a public or private nature. They conceived it to be of the former description, and therefore it is now forwarded. See No. 5. . . .

*George Mason: Draft Resolutions Reprimanding  
Governor Edmund Randolph, c. 28 June*<sup>3</sup>

Resolved that the official Letter from his Excellency George Clinton Esquire Governor of the State of New York dated March [i.e., May] the 1788 to his Excellency Edmund Randolph Esquire Governor of this Commonwealth on the Subject of ~~an amicable & free~~ a free & cordial Intercourse & Communication of Sentiments between the Conventions of the States of New York and Virginia upon the new Constitution of Government recommended by the late federal Convention, which Letter was laid before the General Assembly on the Day of this Instant June, ought to have been laid before the Convention of this Commonwealth at their first meeting, for their Consideration Resolved that by the said Letter's being withheld from the Convention of this Commonwealth the Convention hath been precluded from exercising their Judgement upon the Expediency of so important a Measure as that mentioned in the said Letter from his Excellency Governor Clinton

Resolved that a Committee of ~~be appointed~~ be chosen by Ballot, to wait on his Excellency Edmund Randolph Esquire to know his Reasons for not laying the said Letter before the Delegates of the People of this Commonwealth in the late Convention, as well as for delaying to lay the same before the general Assembly until the Day after the Ratification of the new Constitution of Government; and also to enquire from what Causes the official Letter from Governor Randolph to Governor Clinton transmitting the Proceedings of the General Assembly in their last Session concerning the Convention of Virginia, was delayed from the Day of December to the Day of March in it's Conveyance to New York, and that the said Committee make Report of their Proceedings therein to the General Assembly—

1. RC, Executive Communications, Vi. Clinton's letter was docketed: "Governor Clinton's/Letter./No. 5." It was the fifth and last item Governor Randolph sent to the

House of Delegates. Clinton (1739–1812) served as governor of New York from 1777 to 1795 and from 1801 to 1804. He was Thomas Jefferson's second Vice President and died in office as Vice President under James Madison.

2. RC, Executive Communications, Vi. The rest of this letter discusses the other documents presented to the House.

3. Dft (undated), Mason Papers, DLC.

### **George Nicholas to James Madison** **Charlottesville, 9 May<sup>1</sup>**

I congratulate you on the decision of the Maryland convention.

I am much alarmed by the accounts from Kentucky.<sup>2</sup> Will you commit to paper the reasons that induce you to think that their navigation so far from being endangered, will probably be promoted by the adoption of the new government. Shewing that it is the policy of the different states to insist on it and that from their conduct in Congress *latterly* on this subject they are themselves convinced of it, will have a great effect.

Are you furnished with estimates to shew the probable amount of an impost and the duties on enumerated articles. I know that it will be attempted to prove that the amount will be much less than I suppose it would be. Such statements I suppose might be had from the mercantile gentn. in Phila. or New-York.

1. RC, Madison Papers, DLC. Madison replied to Nicholas on 17 May (below).

2. For more on Nicholas' concern about Kentucky, see his 5 April letter to Madison (above).

### **John Brown to James Madison** **New York, 12 May<sup>1</sup>**

I have had the honor to receive your favors of the 9th. & 21st. of April<sup>2</sup> for which accept my thanks. My hopes respecting the Success of the new Constitution in Virginia are in some measure revived by the information you have given me upon that Subject but am still sorry to find that the number of friends & foes are so nearly divided as to render the Vote of Kentucky of critical importance for I fear nothing friendly is to be expected from that quarter. I yesterday reced. letters from Colo. Muter<sup>3</sup> & Mr Innes who inform that it has few or no Supporters in that Country—Muter from a warm friend has become a violent enemy to the Plan & that upon general principles. They enclosed me a list of members chosen to represent that District in Convention & further advise that on the 1st. Monday in April a Convention was to meet at Danville expressly to take into consideration the new Constitution & instruct & charge their representatives with

the Sentiments of the District upon that Subject.<sup>4</sup> This measure almost precludes all hope that any good effect will result from a communication of my Sentiments to their Delegates, as I am apprehensive that they will conceive themselves religiously bound to observe Instructions framed & given with such Solemnity—However as I am personally acquainted with the Men & fully possess their confidence I shall at all events hazard the Attempt.<sup>5</sup>

I have not of late been able to discover any great change in the Sentiments of the People of this State with respect to the New Government. Both parties appear equally confident & have equal expectations from Virginia. Their Elections for Convention are over but the returns are not yet made known. I believe Federalists only are elected for this City—

We have done very little in Congress since you left us—Nine States have not appeared since that time & for a month previous to tuesday last we could not even muster Seven; Nine are again shortly expected upon the floor, as soon as this is the case I shall endeavour to obtain the Determination of Congress upon the Kentucky Application. I flatter myself that it will be in favor 'tho still have great reason to fear the effects of Eastern Jealousy. My Anxiety upon this Subject daily increases—should not a dete[r]mination be had before the expiration of the Act of Separation—or should Congress refuse to grant their request, in either case I fear the consequences may be unfavorable to the Union especially as that District entertains such prejudices against the new Constitution which I hope & believe will be adopted. Let the event of their application be what it may I am convinced they will proceed in establishing their Independence[.] They have already chosen Delegates to meet in Convention at Danville about the last of July to form a Constitution. The future prosperity & tranquility of that Country greatly depends upon the Success of this important undertaking & I fear that few will be found in that Body who have Sufficiently attended to political Subjects to qualify them for the task of framing a good System of Government for that District[.] There is also reason to apprehend that certain partialities & prejudices will operate against a Judicious Selection from the Constitutions of the different States[.] Some of the most respectable Characters in that Country aware of their difficulties have expressed to me their wish that you could be prevailed upon to draw up a plan of Government for that District to be laid before their Convention—assuring that from the great confidence they place in your integrity & Abilities there is every reason to believe that it would be adopted in toto—Will you pardon me for adding my request to their Wishes—I am sensible of the impropriety

of this application at a time when you are engaged in important Business—let my anxiety to promote the happiness of a flourishing Country in which I propose to spend my life plead my excuse.

I send you enclosed the Statements you required & shall at all times be happy in being favord with your commands should my Services in this quarter be of use to you<sup>6</sup>

PS. Mrs. Elsworth desires to be rememberd to you also Mrs. Harman who is now a Widdow<sup>7</sup>

1. RC, Madison Papers, DLC.

2. Madison's letter of 9 April is printed above; that of the 21st has not been located.

3. Writing to James Breckinridge on 14 May, Brown said that he was "sorry to find that [the] New Constitution is still in great Jeopardy in Virga. The event is doubtful in S. Carolina—Anarchy will be the Consequence if it is rejected—'Tis with great difficulty that we can keep the Old Machine in Motion—without the prospect of the adoption of the New it would be impossible" (Breckinridge Family Papers, ViU).

4. The letters of George Muter and Harry Innes have not been located. Muter and Innes were among the members of the "court party" who signed an Antifederal circular letter, dated 29 February, to the various county courts in Kentucky calling for a convention to meet on the first Monday in April to instruct the district's delegates to the state ratifying Convention. The convention of the Kentucky counties never met (RCS:Va., 433–36).

5. See George Nicholas to Madison, 5 April, note 7 (above).

6. These enclosures were "full statements of the Foreign & domestic debts" of the United States (Edward Carrington to Madison, 28 May, Rutland, *Madison*, XI, 61).

7. When he attended Congress in New York, Madison lived at the boardinghouse of Vandine and Dorothy Elsworth, 19 Maiden Lane. Mrs. Harman apparently lived there, too.

### **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 addi-



tional life to the Minority in Pennsylvania, 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.

1. RC, Jefferson Papers, DLC. Printed: Boyd, XIII, 156–58.

2. The letter that John Paradise carried to Paris was actually dated 24 April (see above). Jefferson replied to this letter on 27 May, recommending amendments to the Constitution—particularly a bill of rights and rotation in office, especially for the Senate and President (Boyd, XIII, 208–9).

3. Poet Joel Barlow, one of the “Connecticut Wits,” was on his way to Europe as the agent of the Scioto Company—a land company. He was carrying Volume I of *The Federalist*, which had been first offered for sale in New York City on 22 March (CC:639). Volume II of *The Federalist* was published in New York City on 28 May, and on 10 August Carrington forwarded a copy to Jefferson (Boyd, XIII, 495).

### Tench Coxe to William Tilghman Philadelphia, 14 May (excerpt)<sup>1</sup>

... As you have had the best opportunities in the Maryland Convention I wish you would take the trouble of writing one long full & minute letter on the subject to our friend Benj. Harrison Junr. Mercht. Richmond,<sup>2</sup> who is attached to the Government & will make a proper use of it. It may go ~~to~~ post without delay as they are to meet the first of June. They will want authentic Information to satisfy Doubts & prevent misrepresentations.

[P.S.] The present being by a Negro, the Money cannot go—Can you

get the enclosed to our frd A. Hanson to be republished in Annapolis. I have endeavoured in it to put the matter in the light in wch. it ought to strike Virginia.—It is “*The American*”<sup>3</sup>

1. RC, Tilghman Collection, PHi. This letter, addressed to Tilghman in Chestertown, Md., was endorsed as answered on 11 June. (See notes 2 and 3, below.)

2. Benjamin Harrison, Jr., had been deputy paymaster of the Continental troops in Virginia during the Revolution. His father, the former governor, opposed the Constitution as a Charles City County delegate to the Virginia Convention. On 11 June Tilghman told Coxe that “I wrote to our old classmate B. Harrison, & gave him a state of all material circumstances—If Virginia ratifies the thing is done—and I hope there is little doubt but she will” (Tench Coxe Papers, Series II, Correspondence and General Papers, PHi). During the 1760s, the three men had attended the Philadelphia Academy (University of Pennsylvania).

3. Two essays by “An American” addressed to the members of the Virginia Convention appeared in the *Pennsylvania Gazette* on 21 and 28 May (see below). In his 11 June reply (note 2, above), Tilghman told Coxe that Alexander Contee Hanson of Annapolis “has been ill for some time—I have had no opportunity of forwarding your piece to him, but 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.” The first essay was reprinted in the *Baltimore Maryland Gazette* on 27 and 30 May, while the second appeared in the *Annapolis Maryland Gazette* on 12 June. For the circulation of the essays, see “An American,” 21 May (below).

### Charles Lee to George Washington

Richmond, 14 May (excerpt)<sup>1</sup>

... The Court of Appeals after much consideration have determined that the District Law of the last session is contrary to the constitution and therefore ought not to be executed. This they have represented to the Executive who are this day to decide whether the Genl. Assembly ought not immediately to be called which I think probable. However the Governor does not seem to like the idea and this aversion is attributed to the circumstance, that the district bill was drawn by him. I apprehend the public opinion will be much divided respecting the conduct of the Judiciary and that it will be a source of uneasiness and distraction among the people at large.<sup>2</sup>

With regard to the proposed constitution, it seems that the newspapers have mispublished the delegates from Kentucky and the governor informs me that they are to a man opposed to it—He seems to be fixing in favor of it, and this stroke of the Judiciary will have some effect upon his mind and perhaps on the minds of others shewing the incompetency of our present government to maintain us in society.

P.S. The Assembly are to meet on the 23d. June by order of Council.

1. RC, Washington Papers, DLC. Lee misdated this letter 14 April.

2. On 3 January 1788 the legislature passed an act for establishing district courts (Hening, XII, 532–58. Hening mistakenly gives the date of passage as 2 January.). On

14 May Governor Randolph laid before the Council of State a letter dated 12 May from Edmund Pendleton, the President of the Court of Appeals, enclosing a remonstrance of the court respecting the act. The court asked that the remonstrance be presented to the General Assembly. The remonstrance stated "that the Constitution and the Act . . . are in opposition and cannot exist together; that the former must Controul the latter; and that the said Court ought not to do any thing officially in the execution of an Act, which appears to be contrary to the Spirit of the Constitution; and it hath been moreover adjudged by the said Court, that Clerks of the District-Courts ought not now to be appointed for reasons, contained in the said remonstrance" (Proclamation of Governor Edmund Randolph, 14 May, Executive Papers, Vi. The complete text of the remonstrance was printed in an extra issue of the *Virginia Independent Chronicle* on 21 May, in the *Virginia Gazette and Weekly Advertiser* on 22 May, and in both Winchester newspapers on 28 May (Mfm:Va.). The remonstrance is also printed in Daniel Call, ed., *Reports of Cases Argued and Decided in the Court of Appeals of Virginia* [Richmond, 1833], IV, 141-47. For a commentary on the remonstrance, see William Nelson, Jr., to William Short, 12 July, V below.)

The Council of State concluded from the remonstrance that "it is presumable, that in the opinion of the court of appeals the said act is a nullity in the whole. The Executive seem therefore to be called upon to present to the legislature as early as possible an opportunity of revising the said act and examining the proceedings of the said court according to the standard of constitutional right." The Council of State advised that a proclamation be issued for calling the legislature into special session on 23 June. Randolph issued the proclamation immediately, calling upon the legislature "to revise the said Act and examine the proceedings of the said Court, according to the Standard of Constitutional right" (Executive Papers, Vi). The legislature met in special session from 23 to 30 June, but not until 22 December did it adopt a new act that established district courts and reorganized the General Court (Hening, XII, 730-63).

## Brutus

### Virginia Independent Chronicle, 14 May<sup>1</sup>

Mr. DAVIS.

SIR, In your Chronicle, of April the 2d, you have furnished the public with a piece under the signature of Cassius, which states that "opinions have been *insidiously* disseminated, respecting the *federal constitution*, which are entirely devoid of truth," &c. Whether this assertion is true or not remains with Cassius to prove, and to shew the impropriety of—The term *insidiously* may indeed be applied, as Cassius has applied it, abusively, to treat the most decent consideration of a subject, which deeply interesting every freeman of the state requires to be freely and fully discussed—or why was it placed before the public for the consideration of the people? But Cassius will do well to shew by what authority he calls a mere project or proposed plan of government "the Fœderal Constitution"—Were any citizen *insidiously* to disseminate falsehoods against a government established, there would be occasion for censure, but surely no man of sense or modesty, will arrogate to himself and his associates an exclusive right to give opinions upon a submitted question which essentially concerns the dearest rights

of humanity. It is certainly to be lamented, that a subject so momentous as government, cannot be temperately and decently agreed upon, without producing the most illiberal abuse and indecent violation of all good sense and good manners! Mr. Lee had certainly as good a right to give his sentiments of the proposed plan of government, to his friend, as Cassius had to trouble the public with his curious dissertation on parts of Mr. Lee's letter<sup>2</sup>—the first objection to which letter Cassius thinks to be what follows—"It has hitherto been supposed a fundamental maxim that in governments rightly balanced, the different branches of legislation should be unconnected, and the legislative and executive powers separated"—The candid reader may observe here that as an American is giving his opinions to an American concerning American government, the principles which reign in the American, and not in the British form of government, should have occupied his mind. In support of Mr. Lee's opinion, let us, passing over similar declarations in other states, see what is asserted by two of the most considerable states in the union. The Massachusetts bill of rights contains these remarkable words—"In the government of this commonwealth, the legislative department shall never exercise the executive and judicial powers, or either of them; the judicial shall never exercise the legislative and executive powers, or either of them; the executive shall never exercise the legislative or judicial powers, or either of them; to the end it may be a government of laws and not of men."<sup>3</sup> This sensible republic considers the union of either of these powers as producing a government of *men* and not of *laws*. The bill of rights or constitution of our country declares, "The legislative, executive, and judiciary departments, shall be separate and distinct, so that neither exercise the powers of more than one of them at the same time."<sup>4</sup> The judgment of the learned Montesquieu will be found analogous to these declarations of Virginia and Massachusetts. This able writer says, "whenever the legislative and executive powers are united in the same person or in the same body of magistracy, there can be then no liberty; because apprehensions may arise that the same monarch or senate should enact tyrannical laws to execute them in a tyrannical manner. Again, there is no liberty if the power of judging be not separated from the legislative and executive powers. Were it joined with the legislative the life and liberty of the subject would be exposed to arbitrary controul, for the judge would then be the legislator. Were it joined to the executive power, the judge might behave with all the violence of an oppressor. (Miserable indeed would be the case,) were the same man or the same body of men, whether of the nobles or the people, to exercise those three powers, that of enacting laws, that of executing

the public resolutions, and that of judging the crimes and differences of individuals"<sup>5</sup>—I may now be allowed to call upon Cassius in his own civil language—"*Cassius what say you? are these quotations just or not? I dare you to speak out. I should not, Sir, have produced them, did I not conceive it necessary to convince the world, that you are either totally ignorant of the subject on which you write, or that you have ungenerously attempted to deceive the people against your better information.*" It is reasonably to be expected that the good people of America will rather approve of the American ideas of Mr. Lee, than the ill understood British ideas of Cassius. I will not dispute with you Cassius, or with your authority, whether "the negative given to the King (of Great-Britain I suppose you mean) on the proceedings of both houses of parliament, was conceived absolutely necessary to preserve the balance of power, although the King at the same time exercises the whole executive power." But I think Cassius will find in Lord Clarendon's history, that both houses of parliament joined in declaring to the people, "*that the King of England was obliged by his coronation oath to pass such laws as the people should choose by the two houses of parliament, and that since laws have passed by way of bills they did not find that ever the Kings did deny them, otherwise than is expressed in that usual answer 'Le Roy l'avisera,' which signifies rather a suspension than a refusal of the royal assent.*"<sup>6</sup> It will be very difficult I believe, to find three instances in the course of one hundred years back of any such prerogative being exercised by the Kings of England. However let it be granted, that the British Kings have a negative on the bills proposed by the two houses, and that they have also the executive power, does it follow that Mr. Lee did not *reasonably* object to the proposed plan of government which joins the president with the senate in the general discharge of executive powers, when they are both of them branches of the legislature, and in some instances the whole of the legislature, and when at the same time the senate are the sole judges of impeachments, thus rendering responsibility difficult, if not impracticable? Here your favorite constitution of England forsakes you—in that system the King is aided in the exercise of his executive functions by a privy council (not by the house of Lords) the members of which are put in the way of responsibility by being obliged to sign the advice they give in a council book. Doctor Blackstone says that the abuse of the kingly power in making treaties to the detriment of the nation is checked "by the means of parliamentary impeachment for the punishment of such ministers as from criminal motives advise or conclude any treaty, which shall afterwards be judged to derogate from the honor and interest of the nation."<sup>7</sup>—Now let me again apply in the civil words of Cassius—"stand forth, thou

*deliberate deceiver of the public and answer*”—If a treaty were made by the president and senate that should be found prejudicial to the interest and honor of the United States, how is punishment to be applied? By impeaching the senate before the senate, who are to judge of their own crimes in this respect, and inflict punishment in themselves? The public will then judge, Cassius, of these your insolent questions proposed to Mr. Lee—“*Do you not sincerely believe that the concurrence of the senate with the president in the execution of this power is a happy innovation (innovation on what Cassius?) in the federal constitution? Will it not afford a strong additional security to the people for its faithful performance? Do you not conceive it to be one of the loveliest features of the new constitution?*” I will help you to answer these handsome questions yourself by a citation from Cato’s letters, written by very able defenders of public liberty in the early parts of the present century—“Considering what sort of a creature man is, it is scarce possible to put him under too many restraints, when he is possessed of great power: He may possibly use it well; but they act most prudently, who, supposing that he would use it ill, enclose him within certain bounds, and make it terrible in him to exceed them. Men that are above all fear, soon grow above all shame. *Rupio pudere et metu, suo tantum ingenio utibatur*, says Tacitus of Tiberius. Even Nero had lived a great while inoffensively and reigned virtuously. But finding at last that he might do what he would, he let loose his appetite for blood, and committed such mighty, such monstrous, such unnatural slaughters and outrages, as none but a heart bent on the study of cruelty could have devised”<sup>8</sup>—I would advise you Cassius to read Cato’s letters, they may perhaps inform your mind, which appears at present to be extremely uni[n]formed, and render you a better citizen of a free government than the principles you now profess seem to promise. Are you sure, Cassius, absolutely certain, that a King of England can make a *valid treaty* that shall contravene the previously established law of the land, whether common or statute, because as you say *the law of nations is part of the law of the land*.—But so is the law of parliament part of the law of the land, and yet either house of parliament that can make this kind of law, cannot by their single determinations repeal or alter an act of parliament, or the common law. Do you think, Cassius, that the King by treaty can alienate the British dominions? Every man acquainted with the subject will, I believe answer NO. That in such case an act of parliament must give validity to the treaty. Yet by the new plan of government, a treaty made by the president and senate shall be “the supreme law of the land, and the judges in every state shall be bound thereby.”—That seems to be saying in other words that a part shall be

greater than the whole—Or that though three branches must make the law, two may destroy it—I apprehend, Cassius, these strictures will prove, even to yourself, that you are but little fitted to give opinions upon government, to the public; where quackery is more surely to be discovered than in the private prescriptions of other professions, and that you have but lightly considered the proposed constitution for the states which you so rudely (I wish I were not compelled to say weakly) support—If you really understand any thing of this latter subject, so adventurous a champion as yourself may give the public satisfactory reasons why a power is given to the new Congress over the times, places and manner of holding elections for representatives; because such a power is capable of the grossest abuse by ordering all the elections of this country to be held at the most inconvenient places, where few can or will attend to vote? Why so ill an opinion of the justice and judges, of our country should be entertained as that citizens of other states and foreigners should have liberty to carry our citizens into the fœderal courts for the most trifling causes? Perhaps you know that England and Scotland are united for every good purpose, and yet that an Englishman cannot originally sue a Scotchman in any court erected by an act of parliament of Great-Britain, although in great cases an appeal may go to the house of Lords? I believe you will find that this degrading idea of our courts is truly original, and that nothing similar to it, is to be found in the history of nations. An Englishman will not allow you to carry him out of his own country for debt, but he may carry a citizen of Virginia to Philadelphia, or wherever the new Congress may appoint, upon every frivolous pretext, and there try him without a jury—because the supreme fœderal court in appeal shall have jurisdiction both “as to law and fact.” Tell us if you please why no declaration is made in form of a bill of rights to secure the freedom of the press, the trial by jury, common law securities in criminal accusations, and to save from violation the rights of conscience? So *able* an advocate as you for the new constitution may also assign a good reason why Delaware, that pays but a sixty seventh part of the general expences, should vote on a money bill in the senate equally with Virginia that pays a sixth part of the same expences? Perhaps you may satisfy us that another convention cannot be obtained to remedy the defects that are so apparent in this proposed system. Whether Mr. Lee does, or does not, think it worth his while to correct your errors, the government under which we are to live, is too serious a matter to suffer your deceptions and abuse of good characters to pass unnoticed<sup>(a)</sup>—You should remember, Cassius, that there is a great difference

between a railer and a reasoner; that good sense and good manners are essential to good writing.

Princess-Anne, April 18, 1788.

(a) *Will you have the goodness, Cassius, to reconcile this paradox of yours to the public, that the House of Commons has been found by experience a sufficient counterpoise to the kingly powers in England, although the same House of Commons is supposed to be always under the influence of the crown by bribery of different kinds. It will not do to suggest, as you have done, that it will take less money to bribe one hundred than five hundred, because the same argument should persuade America to put their government into the hands of one man, because less money may do to bribe one, than one hundred men!*

1. On 7 May the printer of the *Chronicle* informed his readers that "BRUTUS is unavoidably postponed until our next." "Brutus" answers the first installment of "Cassius" which the *Chronicle* had published on 2 April (above).

2. "Brutus" refers to Richard Henry Lee's 16 October letter to Governor Edmund Randolph (RCS:Va., 59-67).

3. See Thorpe, III, 1893.

4. See RCS:Va., 530, 533.

5. *Spirit of Laws*, I, Book XI, chapter VI, 222. In the Thomas Nugent translation of Montesquieu cited here, the material in angle brackets reads: "There would be an end of every thing."

6. Edward, Earl of Clarendon, *The History of the Rebellion and Civil Wars in England Begun in the Year 1641* (1888; W. Dunn Macray, ed., 6 vols., Oxford, Eng., 1958), II, Book V, section 229. This work was first published in England between 1702 and 1704.

7. *Commentaries*, Book I, chapter VII, 257.

8. *Cato's Letters* (4 vols., London, 1724), I, 262. The quoted material is from one of 138 letters, written by Whigs John Trenchard and Thomas Gordon, that were printed in the *London Journal* and the *British Journal* between 1720 and 1723. The quoted letter, the thirty-third in the series, was first printed on 17 June 1721.

### George Washington to John Jay Mount Vernon, 15 May<sup>1</sup>

I am indebted to you for your favors of the 20th. & 24th. Ult and thank you for your care of my foreign letters.<sup>2</sup>—I do the same for the Pamphlet you were so obliging as to send me.—The good sense, forceable observations, temper and moderation with which it is written cannot fail, I should think, of making a serious impression even upon the anti-fœderal mind where it is not under the influence of such local views as will yield to no arguments—no proofs.—

Could you, conveniently, furnish me with another of these pamphlets I would thank you, having sent the last to a friend of mine.<sup>3</sup>—

Since the Elections in this State little doubt is entertained of the



adoption of the proposed Constitution with us (if no mistake has been made with respect to the Sentiments of the Kentucke members).—The opponents to it I am informed are *now* also of this opinion.—Their grand manœuvres were exhibited at the Elections, and some of them, if report be true, were not much to their credit.—Failing in their attempt to exclude the friends to the New Government from the Convention, and baffled in their exertions to effect an adjournment in Maryland, they have become more passive of *late*.—Should South Carolina (now in Session) decide favourably, and the government thereby (nine States having acceded) get in motion, I can scarcely conceive that any one of the remainder, or all of them together, were they to convene for the purpose of deliberation would (separated from each other as they then would be in a geographical point of view) incline to withdraw from the Union with the other nine—

1. RC, Jay Papers, Rare Book and Manuscript Library, Columbia University.

2. In his 24 April letter, Jay had indicated that he had forwarded a large packet to the Marquis de Lafayette and letters to more than a dozen of Washington's correspondents in France and England (Washington Papers, DLC).

3. Probably a reference to Jay's pamphlet *An Address to the People of the State of New-York* . . . signed "A Citizen of New-York," which was offered for sale in New York City on 15 April (CC:683). Jay had sent Washington a copy on 20 April (Washington Papers, DLC). In his letter of 29 May, Jay apparently sent Washington another copy of his pamphlet and a copy of a pamphlet "on the other Side of the Question" (Jay Papers, Columbia University). The Antifederalist pamphlet was "A Plebeian's" *An Address to the People of the State of New-York* . . . , which was offered for sale in New York City on 17 April (CC:689). In a postscript, "A Plebeian," perhaps Melancton Smith, directly answered Jay's pamphlet.

On 8 June Washington replied to Jay's 29 May letter, but he did not mention either pamphlet (V below). On the same day, however, Washington sent Jay's pamphlet to James Madison, stating that "Altho' I have little doubt of your having received a copy of the enclosed pamphlet, yet I send it.—It is written with much good sense & moderation—I conjecture, but upon no certain ground, that Mr. Jay is the Author of it.—He sent it to me sometime ago, since which I have received two or three more copies" (V below).

### James Madison to George Nicholas Orange, 17 May<sup>1</sup>

I received your favor of the 9th. inst: 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>2</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 erro-

neous views of it. I have reason to believe particularly that the project will not again have the patronage of one very influential 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 Eastern Atlantic States.

The protection and security which the new Government promises to purchasers of the foederal 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>3</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.  $\frac{2}{3}$  of the Senate will also be required, as  $\frac{2}{3}$  of Congs. now is. The only difference which relates to the Senate is that  $\frac{2}{3}$  of a majority of that body will suffice; whereas in Congs. there must be  $\frac{2}{3}$  of the whole number of votes.<sup>4</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  $\frac{2}{3}$  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>5</sup>

To complete the comparison between the two bodies another difference 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>6</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  $\frac{2}{3}$ , 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  $\frac{3}{5}$  only

of the whole number. If the delegations contain each 3 members only, the point may be carried by not more than  $\frac{2}{3}$ .

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 & Delaware 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. 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  $\frac{1}{6}$  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>7</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.—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>8</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>9</sup>

1. RC, Reuben T. Durrett Collection, Miscellaneous Manuscripts, 1786–1792, Department of Special Collections, University of Chicago Library. Madison answers Nicholas' letter of 9 May (above).

2. For a discussion of the Jay-Gardoqui treaty negotiations and the navigation of the Mississippi River, see RCS:Va., xxix–xxxi.

3. See John Brown to James Breckinridge, 28 January, note 3 (RCS:Va., 331).

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

5. Madison probably overstated the case for the frequency of change in the Confederation Congress. The Articles of Confederation 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. (Madison himself was one such case.) Other delegates served for a year or two, dropped out, and then returned for another year or two. Consequently, it is difficult to say that there would be an entire change in membership every three years.

6. 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 five delegates could be appointed to Congress, and that three should always be in attendance (Hening, XI, 365).

7. See Cyrus Griffin to Madison, 28 April (above).

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

9. On 28 April and 5 May, Griffin sent Madison copies of a New York City newspaper (probably the *Daily Advertiser*) of those days (above; and Rutland, *Madison*, XI, 38).

### The Second Attempt at Cooperation between Virginia and New York Antifederalists, 18 May–27 June

The first attempt between Virginia and New York Antifederalists to cooperate in proposing amendments to the Constitution failed. On 8 May, New York Governor George Clinton wrote Governor Edmund Randolph complaining about the two-month delay in receiving Virginia's first overture at cooperation that was made in Randolph's official letter of 27 December. (See "The First Attempt at Cooperation between Virginia and New York Antifederalists," 8 May–15 October, above.) Governor Clinton expressed confidence that the New York Convention would be willing "to hold a Communication with any Sister State." Since the Virginia Convention would meet first, Clinton presumed that it should take the lead in communicating with the New York Convention.

On 18, 19, and 20 May, the Federal Republican Committee of New York, a group of Antifederalists in and around New York City, seized the initiative as its chairman John Lamb 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 and April, respectively, while the South Carolina Convention had convened on 12 May. Virginia's Convention was scheduled to meet on 2 June, New Hampshire's on 18 June, and North Carolina's on 21 July. The New York Convention was to convene on 17 June.

The Federal Republican Committee addressed letters "to some of the most influential Delegates" to the Virginia Convention—Patrick Henry,



George Mason, and William Grayson. Richard Henry Lee also received a letter, possibly because the New York Committee assumed that he would be a Convention delegate. (The letter to Lee, dated 18 May, is printed below.) To ensure confidentiality, Lamb sent all four letters to Richmond by Eleazer Oswald, the Antifederalist printer of the Philadelphia *Independent Gazetteer*. (New York Antifederalists, as well as other Antifederalists throughout America, distrusted the postal system because they believed that their mail was deliberately delayed or opened.)

Oswald arrived in Richmond on Saturday, 7 June. Presumably, John Lamb had scheduled the arrival of his letters in Richmond to coincide with the first days of the Virginia Convention. (Lee received his letter on 27 June after it was forwarded to his Westmoreland County estate.) The letters to Antifederalist leaders in the other five states arrived between 10 and 20 June, so that it is apparent that either John Lamb or the Federal Republican Committee delayed their delivery. (One North Carolinian, however, did not get his letter until 23 July.) Only in the case of Virginia does it appear that a special messenger was employed.

Federalists knew about Oswald's arrival in Richmond and the significance of his mission was clear to them. Convention delegate James Madison reported that Oswald had "closet interviews with the leaders of the Opposition"; he speculated that Oswald's presence meant that "a negotiation for delay is [a]foot between the opposition" in New York and Virginia (to Alexander Hamilton, 9, 16 June, V below). Henry Lee, also a Convention delegate, said that "A correspondence has certainly been opened thro a Mr. O. of Philada. from the malcontents of P. [Pennsylvania] & N.Y. to us—it has its operation, but I believe we are still safe, unless the question of adjournment should be introduced . . ." (to Hamilton, 16 June, V below). Four days later, however, Madison expressed concern "that something is expected from" the New York "Convention in consequence of the [Oswald] Mission" (to Hamilton, 20 June, V below). Madison, passing through Baltimore about two weeks after the Virginia Convention adjourned, repeated his concern about the opposition to the Constitution. Baltimore lawyer Robert Smith said that Madison mentioned "that a suspicion is entertained in Virginia, that there is a regular correspondence between the Anti-federalists of the different States—that they are yet acting in Concert—and that there is in Contemplation a settled System of Opposition to the Government" (to Tench Coxe, 31 July, Coxe Papers, Series II, Correspondence and General Papers, PHi).

While Oswald was en route to Virginia, the New York Federal Republican Committee wrote Antifederalists in Virginia and New Hampshire on 6 June and informed them of the landslide victory of New York Antifederalists in the election of Convention delegates (below). (The elections had taken place from 29 April to 3 May, but, in accordance with state law, the ballots were not counted until four weeks later.) The Federal Republican Committee hoped that this news would stimulate "a communication" among the conventions of New York, Virginia, and New Hampshire. No Virginia response to this letter has been located. (The letter to New Hampshire was received on 20 June and answered three days later. See Joshua Atherton to the Federal Republican Committee of New York, 23 June, Lamb Papers, NHi.)

On 9 June, or shortly thereafter, Eleazer Oswald started back for New York, carrying letters for John Lamb from William Grayson, Patrick Henry, and George Mason. 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 (below). (For a recommendation that such a committee be organized, see Richard Henry Lee to Mason, 7 May, above.) George Mason, the chairman of the committee, enclosed a copy of the amendments in his letter (below).

The three Virginians expressed concern that their 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 his correspondence by way of George Fleming, a Richmond merchant.

Eleazer Oswald, not wanting "to risque" the Virginia letters "with any other Person," passed through Philadelphia and arrived in New York City on Monday evening, 16 June. He told 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 (below).

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 (below). 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 (below). Given the fact that it would have taken an express rider about a week to get from Poughkeepsie to Richmond, Yates's 21 June letter did not reach Richmond before the Virginia Convention ratified the Constitution on 25 June.

*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 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>2</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 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 Adoption—

To accomplish this desirable Event it is of Importance that those States who have not yet acceded to the Plan should open a Correspondence, and maintain a Communication—That they should understand one another on the Subject and unite in the Amendments they propose—

With this View we address you on the Subject and request a free Correspondence may be opened between such Gentlemen in your State 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>3</sup>—We have every Reason to believe it will be agreeably to ours.—

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—But by the best Information received from the different Counties we have not a Doubt of there being a decided Majority returned who will be opposed to the Constitution in its present Form.<sup>4</sup> A number of the leading and influential Characters who will compose the Opposition in our Convention are associated with us. We are anxious to form a Union with our Friends in the other States, and to manifest to the Continent and to the World, that our Opposition 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—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>5</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.—

*From the New York Federal Republican Committee  
New York, 6 June<sup>6</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—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 essential benefits to our ~~common~~ Country. As by this means the 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, 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>7</sup>

*William Grayson to John Lamb*  
*Richmond, 9 June<sup>8</sup>*

I recieved your letter by Colo. Oswald, and the same evening<sup>9</sup> laid it before the Commee. of Opposition: they have directed the Chairman<sup>10</sup> to answer it by Colo. Oswald:—some of our proposed amendments are finished in the Commee.;<sup>11</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 amendments before adoption: this however has not injured us:—neither has the news of the ratification of South Carolina:<sup>12</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 sentiment. not knowing how others will think on the occasion.

*Patrick Henry to John Lamb*  
*Richmond, 9 June*<sup>13</sup>

I was honored by the Rect. of your Favor by the Hands of Colo. Oswald accompanying three pamphlets,<sup>14</sup> for which & for the Communication resulting from a View 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 satisfied  $\frac{4}{5}$  of our Inhabitants are opposed to the new Scheme of Govern[ment].<sup>15</sup> Indeed in the part of this Country lying south of James River I am confident  $\frac{9}{10}$  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 Subtlety 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 yielded 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>16</sup> The Fate of them is altogether uncertain, but of that you will be informed. To assimilate our Views 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 Govern[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. Oswald's 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 common Country & the best Interests of Humanity, I beg Leave to subscribe myself with great Respect & Regard Sir

*George Mason to John Lamb  
Richmond, 9 June<sup>17</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>18</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>19</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>20</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.

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 Suf-



frage:<sup>21</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 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>22</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>23</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>24</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>25</sup> of bearing Arms<sup>26</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 unaleinable 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.

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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>(c)</sup>That there shall be a constitutional responsible Council, to assist in the Administration of Government, with the Power of choosing 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 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.—

*John Lamb to George Clinton*  
*New York, 17 June*<sup>27</sup>

I now forward to you (by a special Messenger)<sup>28</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>29</sup>

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

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.

*George Clinton to John Lamb  
Poughkeepsie, 21 June<sup>30</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 previous 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>31</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>32</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>33</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>34</sup> will stay with me until Tuesday, which induces me to send this by Captain North<sup>35</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>36</sup>

*Robert Yates to George Mason*  
*Poughkeepsie, 21 June (excerpts)*<sup>37</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. . . .

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>38</sup> It is however possible upon farther Consideration that some of these may be modified or altered and others perhaps dropt.

*Richard Henry Lee to John Lamb*  
*Chantilly, 27 June*<sup>39</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>40</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; 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>41</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 really 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.<sup>42</sup>

1. RC, Lee-Ludwell Papers, Letters to Richard Henry Lee, ViHi. A nineteenth-century copy of this letter is in the Lee Family Papers in the Virginia Historical Society. The recipient's copy of the letter was written by an amanuensis, but was signed by Lamb. Charles Tillinghast, Lamb's son-in-law and secretary to the Federal Republican Committee of New York, wrote the inside address and the postscript. Lee replied to Lamb on 27 June (below). 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.

2. This pamphlet was possibly *An Additional Number of Letters from the Federal Farmer to the Republican* . . . that was offered for sale in New York City on 2 May (Evans 21197;

*Commentaries on the Constitution*, Vol. 5). It was a continuation of a pamphlet that had appeared in November 1787 entitled *Observations Leading to a Fair Examination of the System of Government Proposed by the Late Convention; and to Several Essential and Necessary Alterations in It. In a Number of Letters from the Federal Farmer to the Republican* (CC:242).

3. Lamb wrote to two New Hampshire Antifederalists—Nathaniel Peabody and Joshua Atherton (see Lamb to Peabody, 18 May, and Atherton to Lamb, 11–14 June, Lamb Papers, NHi).

4. The New York elections for state convention delegates took place between 29 April and 3 May, and the votes according to the 1787 state election law were counted by the county supervisors four weeks after the election had begun. By 5 June the election results from all but one county had been reported in New York City newspapers.

5. Alexander Hamilton had a different view of the opposition in New York: “The language of the Antifederalists 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).

6. FC, Lamb Papers, NHi. Docketed: “Drght of a Letter to V[irginia]./June 6. 1788” (Lamb Papers, NHi). This draft is in the handwriting of an amanuensis and Charles Tillinghast. (For the part written by Tillinghast, see note 7, immediately below.) Alterations are in the handwriting of Lamb. A similar letter was sent to New Hampshire.

7. At the end of this draft, 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 appended to the letter sent to New Hampshire Antifederalists.

8. RC, Lamb Papers, NHi. Addressed: “To/The Hon’ble Brig. Genl. Lamb/New York/by—/Colo. Oswald.” The Lamb Papers also includes a contemporaneous copy of this letter. The copy is docketed: “Copy of Colo. Grayson’s/Letter—/9th June 1788.”

9. Eleazer Oswald arrived in Richmond on Saturday, 7 June.

10. George Mason.

11. For these amendments, see the enclosure in Mason’s letter to Lamb, 9 June (below).

12. 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.

13. RC, Lamb Papers, NHi. This letter was carried to New York by Eleazer Oswald. A contemporaneous copy of it is in the Lamb Papers. The text in angle brackets was printed in the *New York Journal* on 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 the *Winchester Virginia Gazette* on 2 July and in seven other newspapers between 21 and 27 June: N.Y. (3), Pa. (3), Md. (1).

14. See note 2 (above).

15. On 7 March the *Philadelphia Independent Gazetteer* printed an item stating that Arthur Lee had informed some Philadelphians (on his way from Virginia to New York City) that four-fifths of the people of Virginia opposed the Constitution (RCS:Va., 467).

16. For these amendments, see the enclosure to Mason to Lamb, 9 June (immediately below).

17. RC, Lamb Papers, NHi. This letter is in Meriwether Smith’s handwriting, 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, in Charles Tillinghast’s handwriting, that includes the Virginia committee’s proposed amendments to the Constitution (printed as an enclosure immediately below). The original recipient’s copy of



the amendments has not been located. Copies of Mason's letter and the accompanying amendments, both in the handwriting of Meriwether Smith, 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 20, below.)

18. For the Massachusetts amendments, see RCS:Va., 436-37, 437n, and CC:508.

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

20. 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 21 to 26 (below). For photographic reproductions of the drafts, in which some of the amendments are arranged in a different sequence, see Mfm:Va.

The Virginia Historical Society has an incomplete copy of the amendments in the handwriting of Meriwether Smith (Mss13:1788 June 27:1). There are no significant differences between this copy of the amendments and the copy of the amendments made by the Federal Republican Committee of New York. (For the copy in the Virginia Historical Society, see Mfm:Va.)

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 were adopted by the Virginia Convention on 27 June and ordered to be sent (along with the Form of Ratification) to Congress and to all of the state executives or legislatures. (For the Convention's amendments, see Convention Debates, 27 June, IV below.)

21. 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."

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

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

24. 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."

25. At this point in Mason's draft the following words are lined out: "of the Lawfulness."

26. At this point in Mason's draft the words "shou'd be" are lined out.

27. RC, Lamb Papers, NHi.

28. The messenger was Charles Tillinghast.

29. See "James Monroe: Some Observations on the Constitution," c. 25 May (below).

30. RC, Lamb Papers, NHi.

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

32. A reference to Alexander Hamilton, a New York City and County delegate, who, on 20 June, gave a long speech in the Convention calling 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]).

33. See Robert Yates to Mason, 21 June (immediately below).

34. Anthony Lamb, John Lamb's son.

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

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

37. RC, Emmet Collection, NN. Printed: Rutland, *Mason*, III, 1111-12. 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 departure of this sloop, see Clinton to Lamb, 21 June, above, and Tillinghast to Lamb, 21 June, Lamb Papers, NHi.) Yates (1738–1801), an Albany lawyer, had been a justice of the New York Supreme Court since its creation in 1777 and was one of the two New York Antifederalist delegates who left the Constitutional Convention before it adjourned (CC:447). He voted against ratification of the Constitution in the New York Convention.

38. No copy of these amendments has been located.

39. RC, Lamb Papers, NHi.

40. Lamb's letter of 18 May to Lee (above) was probably among those letters carried to Richmond by Eleazer Oswald and then forwarded to Lee in Westmoreland County.

41. Lee refers to his letter of 26 May to Edmund Pendleton (below). The copy of the letter that Lee sent to Lamb, misdated 22 May, is in the Lamb Papers in the New York Historical Society.

42. See note 2 (above).

### **John Parkinson to Joel Lane Portsmouth, 18 May (excerpt)<sup>1</sup>**

... this Country is looked upon as Nothing in the Eyes of Europe, they look on the New Constitution with Pleasure as they think it will Involve us in Greater distress'[s] than at present we labour under I have her'd many debates about it since my Arrival here tho' the People in General seem to wish it may take place, in my Opinion it will be of service to the Maritime Parts of this State & Carolina but it must certainly hurt the back Country as there Taxes will Inevitably be much higher, & their determination to Keep up a Respectable Fleet as well as a Standing Army will very much Inhance the expences of the different States, I understand that all the County's about you are much against it, & in my Opinion it will be to your Interest in the upper parts if it dont pass tho' am afraid it will as Seven States has already given their Approbation there is then only two wanting to compleat the Grand work as some people term [it] tho' God send they may not be Mistaken I am afraid before this Afair is Over this Continent will again feel all the Horrors of War as the People in general seem determin'd in their different Opinions. . . .

1. RC, John Walker Papers, North Carolina Department of Archives and History. Parkinson served in the North Carolina Senate, 1782–84, 1787–92, 1794. Lane, a planter, represented Wake County in the North Carolina Senate almost continuously from 1782 to 1795. He voted against the ratification of the Constitution in the Hillsborough Convention in August 1788 and voted for it in the Fayetteville Convention in November 1789.

### **Norfolk and Portsmouth Journal, 21 May<sup>1</sup>**

Some writers, who either from an over heated imagination, or misguided self-interest, have informed the public (and indeed it seems to

be the great orbit on which all the [arguments?] of the partizans who, have wrote against it revolves), that monarchy, or despotism and slavery, are the inseperable attendants, and synonymous with the adoption of the New Government; they have disingenuously affirmed that one of these evils must be the necessary consequence of our fostering so wise a plan, fallaciously and [---] [---] [---], because [---] [---] it is the accum[u]lated wisdom of the States. It has no other fulcrum than tyranny. These sentiments are of so great an indignity to the union in general, and to the great and distinguished characters who framed it in particular, they scarcely deserve an answer.—But, however, as the greater part of mankind seldom analyze to the bottom, and least some suppose they are floating in the gentle stream of liberty, might inadvertan[t]ly be carried away by an inundation of prejudice, or specious and superficial arguments, I shall answer by a single question, which I hope will appear conclusive, and serve to exhibit the erroneusness of these ideas.—Is it possible, I say, (I now speak of the minority of those states who have already acquiesced) that they would after discussing the subject in so elaborate a manner, were these evils real, tamely and quietly fold their [arms?] in apathy and see a race of nobles engendering in our country, or a monarch wielding the sceptre of oppression and tyranny.—This is merely one of the strongest evidences of its merit, that tho' they discern its faults (for faults it has, says the great Electrician,<sup>2</sup> but such only as are liable to every human structure) yet they conceive them to be so trivial, if necessity requires the efficacious remedy will be nigh at hand—It will be the province of those gentlemen who will be delegated on a future day to serve their country, to repair and beautify this noble monument of American production; it is a duty they owe themselves who partake in the enjoyment of it, to the great and good men who transmitted down, and to posterity who will prize it as the best and greatest hereditament of mankind.

These I conceive to be some of the motives which actuated the bosoms of the minority; they supposing its imperfections to be rather of human extraction rather than any essential evil or threatening danger to the Commonwealth, have wisely and greatly consented to confide in the men, who by the free and united voices of every individual, shall be chosen to manage the helm of this great machine, as it is probable many of them have been the fathers of the people, and one the Sav[i]our of his country. To wish for a Constitution more perfect is rational and natural to man, whose views and wants are unbounded; but to expect it is ridiculous and fanciful.—The idea of a new Convention framing a system more effectually securing the liberties of the people than the present is also visionary; and he who imagines it, is a

slave to his own opinion; he is a madman that knows not how to value civil liberty, and has yet this great and striking lesson to learn that men when from the rude and uncultivated state of nature, fierce and ungovernable in their dispositions, first put on the bonds of civil society, entered into a solemn and social compact, each abrogating part of his natural liberty as the price of so precious a purchase, in order that the whole might live in a comfortable, safe, and peaceable enjoyment of their lives, liberties and properties.—Presumptuous man, fly to Heaven and demand of your God an host of angels, let them send you a government, even this would be termed the work of a rebellious set, and a new one required; so true it is that man is never content with what is here below; and even when he possesses that, vainly imagines he may possess more.—“There is a tide in the affairs of men which, taken at the flood, leads on to fortune”<sup>3</sup>—and when applied to nations leads on to glory—the tide is now flowing in—the important hour at last appears which either rids America of her fears or stamps her ruin; shall we be slow to decide? Shall this golden opportunity be lost? Our celestial Goddess drops a tear, and by a mandate from above, hovers over our land, and points the way to a flood of grandeur. Virginia is now about to decide perhaps the fate of millions, the future happiness or misery of remote posterity; should she so respectable in the Union reject the Constitution, she alone will incense the father against his son, and son against his father; she alone must answer for all the horrors of a civil war; the cries of our weeping matrons will fly to Heaven and demand atonement for the loss of their slaughtered husbands, the rapes of their daughters, and the mangled bodies of their sons. This scene of miseries is too awful to dwell on; the heart of sensibility will bleed in reading the melancholy list, and even the most obdurate must be moved; the history of all ages exhibit to us the solemn train that these are ever the attendant calamities of anarchy; and I am sorry to add, we have too much reason to fear should the States refuse the proposed plan of government, that America is brooding them in her bosom—On the other hand should she accept the heavenly manna, her decision will be stamped on the page of time. Fired with the thought I am born [u]nto distant ages—“what bosom beats not in his country’s cause”;<sup>4</sup> cradle infants will have cause to lisp her praise, and their descendants revere her name;<sup>5</sup> the halcyon day of a general adoption—the glorious epocha will speedily arrive when “all crimes shall cease, and antient fraud shall fail; returning justice lift up oft her scale” when the amicable ties of reciprocal convenience and equal benefits, shall bind the States in perpetual

peace and in an uninterrupted union? when sister nations shall hold out the olive branch and greet each other with mutual benevolence.

1. This essay has been transcribed from the North Carolina *Edenton Intelligencer*, 4 June, which printed it under the heading: "From a late Norfolk Paper." The essay probably first appeared in the *Norfolk and Portsmouth Journal* on 14 or 21 May, neither of which is extant.

2. The reference is to the last speech that Benjamin Franklin made in the Constitutional Convention on 17 September. Franklin said: "In these Sentiments, Sir, I agree to this Constitution, with all its Faults, if they are such: because I think a General Government necessary for us" (CC:77-A). For the reprinting and circulation of Franklin's speech in Virginia, see RCS:Va., 198-200.

3. William Shakespeare, *Julius Caesar*, Act 4, scene 3.

4. "Prologue by Mr. [Alexander] Pope," in Joseph Addison, *Cato. A Tragedy* (London, 1713), line 24.

5. This is a variation on a comment made about George Washington by the French philosopher, the Comte de Mirabeau, in his *Reflections on the Observations on the Importance of the American Revolution . . .* (Philadelphia, 1786). On page 3 of this translation of his work, Mirabeau stated: "Begin with the infant in the cradle: Let the first word he lisps be WASHINGTON!" This became a popular phrase. (See CC:251.)

### **An American: To the Members of the Virginia Convention Pennsylvania Gazette, 21 May**

In mid-May Tench Coxe, a Philadelphia merchant and Federalist essayist, addressed the Virginia Convention in an article signed "An American." Coxe wrote "An American" because the "highly important" state of Virginia would be the next to meet in convention to consider the Constitution (to Timothy Pickering, 28 May, Pickering Papers, MHi).

"An American" was first printed in the *Pennsylvania Gazette* on 21 May. Two days earlier, Coxe had written James Madison promising to forward "a few copies" of the essay to Richmond to be held for Madison's arrival at the state Convention. On 24 May William Heth, writing from Alexandria, forwarded a copy of that newspaper issue to George Washington and told him that the essay "may probably have some influence on our approaching convention." Consequently, Heth meant "to have it reprinted at Richmond immediately" upon his arrival (Washington Papers, DLC. Heth was on his way from New York City to his plantation near Richmond. He had been a commissioner to Congress to settle Virginia's accounts with Congress.).

"An American" 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); *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 nationally circulated Philadelphia *American Museum*, in which Coxe was ascribed as the author. (Deletions made in the *Museum* reprint are set in lined-out type; additions appear in angle brackets.) An incomplete manuscript copy of Coxe's draft essay exists in the Coxe Papers in the Historical Society of Pennsylvania. (See footnote 14, below.)

A second essay signed "An American" and addressed to the Virginia Convention appeared in the *Pennsylvania Gazette* on 28 May (below).

*Tench Coxe to James Madison*  
*Philadelphia, 19 May*<sup>1</sup>

The fate of the new constitution is now hastening to a crisis. The decision of Virginia in its favor ensures its existence, for South Carolina will most certainly adopt it before you can be organized. If on the other hand your Convention should reject the Government it will be rendered extremely uncertain in New York, New Hampshire, and North Carolina. Had our friends been less sanguine in New Hampshire the Carolina Convention would have had the power of finishing the Business, and your difficulties in Virginia would have been comparatively small.

My feelings on this Subject have induced me once more to attempt some observations, not so much on the Constitution itself as on its relation to the Prosperity of Virginia & the United States. I have touched likewise on some points that have been made a ground of complaint by some of your Gentlemen. I shall enclose you a few copies, & earnestly wish they may be useful. To avoid length & repetition I have gone but little into the argument on the commercial powers of Congress. What I have said on that point is upon principles different from, tho not opposite to, those in my letter to Mr. Lee of which I also enclose a copy<sup>2</sup>—with a couple of German papers, favorable to the Gover[n]ment. They contain the American Citizen & other publications which you have seen.<sup>3</sup> Your mind and time must be now so fully occupied that I will not detain your attention further than just to entreat that when you can satisfy yourself about the Event of the Business in your Convention you will signify it, whether favorable or otherwise, by a single line.

*An American*  
*Pennsylvania Gazette, 21 May*

*To the Honorable the MEMBERS of the CONVENTION of VIRGINIA.*

By the special delegation of the people of your respectable commonwealth, you are shortly to determine on the fate of the proposed constitution of fœderal government. First invited to that important measure by the resolutions of your legislature, from the wisest considerations, America, confiding in the steadiness of your patriotism, and feeling that new weight is daily given to your original inducements, doubts not it is now to receive your sanction. But before the awful

determination which is to call *the American union* once more into political existence shall be finally taken, permit one of the most respectful of your countrymen to trespass a few minutes on your time and patience.

The qualities of the proposed government have been so fully explained, and it will receive such further exposition in your honorable body, that it is needless to attempt a regular discussion of the subject. This paper shall therefore be confined to *a few particular considerations* that have been already mentioned by others, or which may now be suggested for the first time.

It has been urged by some sensible and respectable men, that your ~~populous~~ (extensive) state will not be properly represented in the foederal senate. Permit me to remind you, that while you have but one vote of thirteen in the present union, you will have twelve in ninety one in the new confederacy.<sup>4</sup> Suffer me to observe too, that as the United States are *free governments*, it might not have been very unreasonable if the people of Virginia could have given only the same number of votes at *an election for foederal purposes*, as they can give at *a state election*. If the citizens of Virginia find it *wise and prudent*, that *free persons only* shall be taken into consideration in electing their *state legislature*, would it appear extraordinary that citizens of the United States should think *the same rule* proper in electing the *foederal representatives*. By the present arrangement, you may enjoy the weight and power of *five* votes and a half for 168,000 slaves, being three fifths of your whole number of blacks.<sup>5</sup> Were these to be deducted from the votes of Virginia in the foederal house of representatives, it would leave little more than one vote in thirteen in that house. In the present Congress, as before observed, and in the proposed senate, a thirteenth vote is allotted to Virginia. Taking the number of free citizens, which is the proper rule of representation in *free governments*, Virginia, in the foederal representation, would have about as many votes as New York, and *fewer* than Massachusetts or Pennsylvania. It will be proper to consider too the effect of the erection of Kentucke into a separate state, and of her becoming another member of the new confederacy. When that *certain event* shall take place, Virginia will fall *considerably short* of the proportion of one in fourteen of the free white inhabitants of the United States. Impartially considering this true state of things, the opinion that Virginia will hold a share of the powers of the new government, less than she is entitled to, will appear to be erroneous. If, on examination, these facts shall be found to be stated with accuracy and candor, and the observations and reasonings upon them shall appear just and fair, we confidently trust your honorable house will

not consider the proposed constitution as exceptionable in that particular.

Objections have been made by some very respectable gentlemen of your state to the power of Congress, under the new fœderal constitution, to regulate trade "by a bare majority."<sup>6</sup> In a free government, *the voice of the people*, expressed by the votes of a majority, must be *the rule*, or we shall be left without any *certain rule* (mode) to determine what is politically right. To depart from it, *is establishing tyranny by law*. It would be a *solemn renunciation* of the forms and substance of liberty; and our affairs, *on this dangerous principle*, must rapidly hasten to an *oligarchy*—the most dreadful of all governments. It would be in vain to say we might be restrained by *one third* in commercial cases, and *free* in all others. The precedent *once established*, it requires no prophetic gift to say (foresee) *where it would end*. But, independent of the violation of *the great principle of free governments*, the objection, and apprehensions arising from it, are founded on a misconception of the true nature of affairs in all the states. *The landed interest* must ever possess a *commanding majority* in the state and fœderal legislatures. It was supposed the objection ought to have great weight in the five southern states: But we do not find it has been *even mentioned* in the Maryland or Georgia conventions, the only two which have yet determined on the constitution, nor was it noticed in New-Jersey or Delaware, which are *the least commercial* members of the confederacy. Four of the *seven agricultural* states have considered this objection and these fears as unfounded, for they have adopted the constitution with *only eleven dissentient votes*.<sup>7</sup>

The rejection of the government by the state of Virginia, should ~~the~~ *the first eight states* have previously adopted it, is a matter (permit me respectfully to observe) the possible consequences of which should be most seriously considered. Should a ninth state ratify the constitution after you have declined to do so, it will become a *binding compact*—an *operative system*. The American states would *deeply* regret a circumstance, that should place a most respectable member of the present union, and a *natural born elder sister*, in the character of an *alien*; and a late and reluctant adoption, not arising altogether from free choice and *national affection*, would exceedingly abate that cordial joy, which will flow throughout the land at the early adoption of the proposed constitution by your ancient state, whence *the first call to independence* was boldly given, and whence *first arose this great attempt to cement and invigorate our* (the) *union*.<sup>8</sup>

The United States, whatever has been the cause of past events, may certainly become a *nation of great respectability and power*. But such is



the effect of our *distracted* politics, and of *the feebleness of our general government*, that foreign powers *openly* declare their unwillingness to treat with us, while our affairs remain *on the present footing*. However favorable or friendly they may think our intentions towards them, they know *we have not constitutional powers* to execute *our own* desires, even within *our own jurisdiction* (dominions). Senators of no inconsiderable reputation in the British Parliament have told the world, they can make *no fixed arrangements* with us under the *present* confederation. The Ministers of France, which nation has lately evinced the continuance of her friendship by new privileges to our trade,<sup>9</sup> declare they cannot proceed to *the extent* of their desires, since *no power exists to treat upon national ground*. The Court of Spain too, however they might be influenced by *a firm and respectable union*, will never listen to our demands for the navigation of the Missis[s]ippi, while we remain in *our present unconnected situation*. We are no object *even of respect* to them, much less of *apprehension*; and should the present constitution be rejected, they will laugh at all future attempts to continue or invigorate the union. Our Minister at that Court expects to effect *no arrangements there*, without an efficient government being *first adopted here*.<sup>10</sup>

It has been objected to the proposed fœderal constitution, that it tends to render our country more vulnerable, by admitting the further importation of slaves. To persons not accurately acquainted with the whole of the American constitutions, this objection may appear of weight. But when it is canvassed before so enlightened an assembly as the Convention of Virginia, the mistake will be instantly discovered. It will be remembered that ten of the states, and Virginia among the number, have already prohibited the further importation of slaves,<sup>11</sup> and that the power(s) of the legislature of *each state*, even after the adoption of the constitution, will not only remain *competent to prohibition of the slave trade*, but (if they find the measure wise and safe) to the emancipation of the slaves already among us. It may be added further, that the exercise of this power of the state governments can *in no wise* be controuled or restrained by the fœderal legislature.

Should the present attempt to infuse new vigor into the general government fail of success, partial confederacies must at once follow. The states on the Delaware, central in their situation, and (though not superabundantly rich) perfectly independent in their resources, will find themselves bound together by their position on the globe, by a perfect similarity of manners and interests, by the preservation of their common peace and safety, and by the innumerable ties of blood and marriage subsisting between them. A frank and liberal concession of the impost on the part of Pennsylvania will render the inducements

complete. The sentiments of the state of Maryland on the proposed government, their existing connections with Pennsylvania and Delaware, from each of whom they are divided *only by an imaginary line*, will turn their inclinations that way. Rather than connect themselves with a southern country, between which and them a great natural boundary is interposed,<sup>12</sup> and which is rendered vulnerable by 280,000 slaves, they will find it prudent, as well as agreeable, to join their northern neighbours. Should Pennsylvania offer to aggrandize the ports of Maryland, by opening to her the extensive navigation of Susquehanna, whose various branches water many millions of acres of fertile lands, *prudence and interest* will powerfully persuade Maryland to join the middle confederacy. Should the views and propositions of this central and consolidated connexion be *liberal and just*, accessions of very considerable importance may be hoped for from the northern and southern states. What particular benefits then can Virginia reasonably expect from that dissolution of the confederacy, which must follow the rejection of the proposed plan.

The various parts of the North-American continent are formed by nature for the most intimate union. The facilities of our navigation render the communication between the ports of Georgia and New-Hampshire infinitely more expeditious and practicable, than between those of Provence and Picardy, in *France*; Cornwall and Caithness, in *Great-Britain*; or Galicia and Catalonia, in *Spain*. The canals proposed at South-key, Susquehanna and Delaware, will open a communication from the Carolinas to the western countries (counties) of Pennsylvania and New-York. The improvements of Potowmack will give a passage from those southern states to the western parts of Virginia, Maryland, Pennsylvania, and even to the lakes. The canals of Delaware and Chesapeake will open the communication from South-Carolina to New-Jersey, Delaware, the most populous parts of Pennsylvania, and the midland counties of New-York. These important works might be effected for two hundred thousand guineas, and America would thereby be converted into *a cluster of large and fertile islands*, easily communicating with each other, without expence, and in many instances without the uncertainty or dangers of the sea. The voice of nature therefore directs us to be *affectionate associates in peace, and firm supporters in war*. As we cannot mistake her injunctions, to disobey them would be criminal.

The distracted state of our affairs has exceedingly retarded population and manufactures, and interrupted the influx of knowledge and riches. At the return of peace, the European world viewed America with the tender and respectful admiration of a lover to his mistress.

Their peasantry and manufacturers, their merchants and philosophers, were seized with an irresistible desire to visit our shores, and many of them looked towards this country as another land of promise, to spend the remainder of their days. What has prevented their realising these fond ideas? The insecurity of property, the breach or delay (suspension) of public and private obligations, paper tenders, insurrections against state governments of our own choice, contentions among the states, and a total disregard of the most reasonable (salutary) and just demands of the general government. They know (knew) us to be a people capable of great exertions. They saw we possessed a country replete with the means of private happiness and national importance, but they saw too that these inestimable properties of the Americans and their dominions were not brought into any use, from *the defects of our political arrangements, and the enormous abuses in our administration*. Their beloved mistress having fallen from the heights of virtue, and become a *wanton*, they turned from her with disgust and bitterness. Ye friends of religion and morality! ye lovers of liberty and mankind! will ye not seize this opportunity proffered you by the bounty of Heaven, and save your country from contempt and wretchedness?

*The voice of the people*, say the most noble champions of freedom, is *the voice of God*. Before the ratification of the new government by the state of Maryland, the constituents of the conventions which had then adopted it were *a majority of the free people of the United States*. Viewing us as one nation, the constitution had then received *the solemn authoritative sanction of the people*. But as Maryland has since added her number, and as it is next to certain that the adoption of South-Carolina will take place before the rising of your honorable house, you will view the constitution *as ratified by nearly two thirds of the union*. After that event you will find too, that of eight conventions, which have determined on it, *all* have given it their approbation, and among them *two*, containing larger numbers of free citizens than *any three* that are yet to decide. Rhode-Island, we know, has rejected the government in an informal way;<sup>13</sup> but we cannot injure you *even for a moment*, by supposing that *their principles and conduct* could ever have insinuated themselves into your minds. We trust you will concur with us in thinking, that as the considerate approbation of *the wise and good* is a fair argument in favor of a public measure, so is its deliberate rejection by *the weak and wicked*.

The capacities of some parts of America are admirably adapted to supply the wants of others. New-England, destitute of iron and deficient in grain, can be plentifully supplied with both by the middle states. Possessed of the fisheries, and strongly inclined to ship building

and navigation, they (she) can be furnished with the choicest timber from the Carolinas and Georgia. The southern states, so intersected by great waters as to lie exposed to the depredations of the most contemptible fleets, and crowded with a *dangerous species of population*, when proper arrangements shall be made and occasion shall require, can rely on the most useful and friendly aid from the north. The future wars among the naval powers of Europe will probably be *general*. When the house of Bourbon shall contend with Great-Britain for the dominion of the ocean, Holland, Sweden, Denmark and Portugal, will seldom be unconcerned spectators. The prosperity of agriculture in the southern states, in the event of a general war in Europe, will depend on *the shipping of the middle and eastern states*, for the belligerent powers will navigate under a very high insurance, and their ships will moreover be a precarious dependence, from the innumerable accidents of war. It may be said, the southern states will have shipping of their own, of which there can be no doubt, *so far as the state of commerce may render them profitable in time of peace*, but the sudden and vigorous exertions of the states inhabited by free whites can alone furnish<sup>14</sup> *an immediate supply* for the retiring vessels of belligerent foreigners.

Were we to suppose *for a moment* that Virginia had rejected the proposed constitution, and that Georgia, South-Carolina and Maryland were members of the new confederacy, the agricultural interests of Virginia would be exceedingly injured. The supplies of tobacco, furs, (wheat,) flour, cotton, corn, naval stores and timber, required for the consumption, manufactures, and ships of the new union, would doubtless be taken from the states that *belonged* (should belong) to it, while the interfering produce of Virginia probably would not be admitted, or if admitted would be liable to *the foreign impost of five per cent*. Every hundred of her tobacco would pay one fourth of a dollar in Boston, New-York or Philadelphia, every barrel of her flour one fifth of a dollar, every hundred weight of her cotton a dollar and two thirds, every bushel of her ~~corn~~ (wheat) above a penny (two pence) sterling; a tax greatly superior in value to the revenue imposed, under her present laws, on the exportation of her own produce. Besides this, the expence of maintaining a *separate* establishment in government *at home and abroad* would come heavily on Virginia and those states that might join a *partial* (small) confederacy. This expence, we may almost venture to affirm, would be *insupportable*, especially when we consider the present state of money matters *in every part of America*. Should Virginia entertain the idea of a *lesser* (small) confederacy, would it not be wise to consider who would probably unite in it, and upon what terms? From the debates in the Connecticut and Massachusetts Conventions,

as well as the dispositions and habits of those genuine republicans, is it probable that they would consent to give you a share of power *greater* than your *number* (proportion) of free white inhabitants—or is it probable that your nearest neighbour, North Carolina, would consent to it, without your paying into *the common treasury* the neat proceeds of all duties on imports and exports, a great part of which is raised on *their consumption* of foreign articles, and the produce of *their farms*? It would now be in vain, should New-York refuse a share of her impost to Connecticut and New-Jersey, or Pennsylvania a share of her's to New-Jersey and Delaware, or Virginia a share of her's to North Carolina. It is an idea as *just*, as it is generous and liberal, that the imposts of the United States should go into a *common treasury*, belonging to all who pay them, by being the consumers. If North-Carolina has a clear conception of her most evident interests, *she must make this article a sine qua non in any compact that may be proposed to her by your state.*

It will be urged, perhaps, that property should be represented, and that though Virginia has only 252,000 free inhabitants, your representation should still be greater than that of Massachusetts and Pennsylvania, because you are richer. But surely this argument will not be urged by the friends of *equal liberty among the people*. It will not be objected *openly* against the proposed constitution, that it secures *the equal liberties of the poor*. But suppose for a moment a claim for a representation of property were admissible before an assembly of *the free and equal citizens of America*, will not Virginia enjoy the advantage of two votes *more* in the *foederal* government than either Massachusetts or Pennsylvania, though each of those states has 108,000 free citizens *more than yours*. If we were represented *by that only rule of republics*, for your *ten* representatives, Massachusetts would have *more than fourteen*, and Pennsylvania the same number, while both of them are limited to *eight*. Here then we see *the balance of property* said to be in favor of Virginia has procured her three fourths as much *extra* power, as *the lives, liberties and property of all the people of Massachusetts or Pennsylvania*. Power has been given to your state *with no sparing hand*. You (suffer me respectfully to say so) of all the members of the union, appear to have the least cause of complaint. Permit me to remind you of the objections made *on this ground* by Mr. Martin, of Maryland.<sup>15</sup> The opposition *there* asserted that the great states had too large a share of power, and you have the most of all. The same sentiments were urged in the Connecticut Convention. Is it probable then that an allotment of power *more favorable to you* would be made by a new Convention? I submit to your candor whether you ought to ask a greater share. A comparison, in point of wealth and resources, between your state and

any other, is a matter I wish to touch with delicacy. I mean not to offend, but you would despise a freeman, that would decline *the decent expression of his thoughts* on so momentous an occasion. I would submit to you, whether the energy of 250,000 whites in a southern climate, surrounded by more than as many slaves, can be, *or rather whether it is*, equal to that of the same number in a northern climate? Whether two or three negroes in Virginia will be found equal to one yeoman or manufacturer of Pennsylvania or Massachusetts? Whether the ships, mercantile capitals, houses, and monied corporations of Philadelphia, with her growing manufactures and connexions in foreign commerce, may not be placed in the scale against *the balance* of wealth you may be thought to possess, when Kentucke shall become an independent member of the American union.

But, gentlemen, it will be improper to trespass longer on your valuable time, devoted as it is to the most important concerns of VIRGINIA,—AMERICA,—AND MANKIND. Let me entreat you only to bear in mind *the wide difference* that exists in *the opinions and views* of those who oppose the new constitution. *You will find they differ as much from each other, as they dissent from the friends of the plan.*<sup>16</sup> Were there no other people in America but the opposers of the proposed government, it will appear, on a fair statement of their various views and objections, that any constitution which could be formed, on the principles of those in some states, would meet with as much disapprobation by those in others, as they have deemed it necessary to shew to the propositions of the Fœderal Convention. Consider then, in the event of your rejection, *in what a condition we shall be left—into what a situation we may be thrown! Thirteen jarring sovereignties—two or three contending confederacies—or a feeble union—will be the miserable and hopeless alternatives.* The measure of foreign contempt will be *filled up*. Insult will naturally follow, and then injuries *abroad*—while the certain dangers to liberty, property and peace, *at home*, will sink every American, *however firm*, into despondency, or drive him to despair. But this will be too much.—The Convention of Virginia will never be instrumental in bringing such evils on the United States. No.—We will confidently hope that those among you, who do not altogether approve the proposed government, will yet concur in the measure, to save their country from anarchy and ruin. *They will remember the provision to obtain amendments, and will recollect that the power will continue with the people at large in all time to come.*

May 21st, 1788.

1. RC, Madison Papers, DLC. On 11 June Madison wrote Coxe that this 19 May letter was waiting for him when he arrived in Richmond on 3 June and that "the papers

contained in which I have disposed of in the manner most likely to be of service" (V below).

2. Coxe refers to another widely reprinted essay signed "An American," that was first printed in the Philadelphia *Independent Gazetteer* on 28 December (CC:392-A). In this essay, Coxe answered objections to the Constitution raised by Richard Henry Lee in his letter of 16 October to Governor Randolph (RCS:Va., 59-67). On 28 December Coxe had sent "a couple of copies" of "An American" to Madison (then in New York City), hoping that it would be reprinted in New York, New England, South Carolina, and Georgia (CC:392-B). On 3 January Madison praised Coxe's essay and told him that it would "unquestionably be of service in Virginia" (CC:392-C). There is no record that this essay was reprinted in any Virginia newspaper, although it was reprinted in the January issue of the Philadelphia *American Museum* which circulated in Virginia.

3. Between 26 September and 21 October, Coxe's "An American Citizen" I-IV were printed in Philadelphia. Coxe sent copies of these essays to Madison in New York City for republication in New York and Virginia (CC:100, 109, 112, 183). (See "The Republication of An American Citizen I-IV in Virginia," 11 October-c. 15 December, RCS:Va., 52-54.) The German-language newspapers (mentioned by Coxe) were probably the 13, 20, 27 November, and 4 December issues of the *Philadelphische Correspondenz* which had reprinted "An American Citizen" I-IV.

4. Virginia had ten of the sixty-five Representatives in the first U.S. House of Representatives and two of the first twenty-six Senators.

5. "An American" was using the Constitution's ratio of no more than one representative for every 30,000 inhabitants. By an estimate used in the Constitutional Convention, the slave population of Virginia in 1787 was 280,000, three-fifths of which was 168,000 (CDR, 300).

6. "An American" quotes Richard Henry Lee's letter of 16 October to Governor Randolph (RCS:Va., 63); the italics are "An American's." See also George Mason's objections to the Constitution (RCS:Va., 45).

7. Delaware, New Jersey, and Georgia ratified the Constitution unanimously, while Maryland voted 63 to 11 for ratification.

8. In accordance with the 15 May 1776 instructions of Virginia's fifth revolutionary convention, Richard Henry Lee moved in the Second Continental Congress on 7 June 1776 that "these United Colonies are, and of right ought to be, free and independent States," and on 2 July Congress adopted this resolution. On 21 January 1786 the Virginia legislature appointed commissioners to attend the Annapolis Convention, and on 19 and 23 February, respectively, Edmund Randolph, one of the commissioners, and Governor Patrick Henry wrote the state executives requesting that the other states also appoint commissioners (RCS:Va., 538-39). The Annapolis Convention met in September 1786 and recommended that a general convention of the states convene in Philadelphia in May 1787. On 23 November 1786 the Virginia legislature passed an act authorizing the appointment of commissioners to the general convention. This act was forwarded to Congress and the state executives and was instrumental in the adoption of the congressional resolution of 21 February 1787 calling the Constitutional Convention (CDR, 181-85; and RCS:Va., xxxiv-xxxv, 540-41).

9. In late 1787 a French *arrêt de conseil* reduced duties on many articles of American produce in the French trade. It also diluted some of the more stringent aspects of the monopoly on the sale of tobacco in France which was exercised by the Farmers-General and a few American merchants such as Robert Morris. This dilution helped American merchants and planters. By mid-May 1788, however, unbeknownst to Coxe, the French began revoking some of these trading privileges.

10. The principal American diplomat in Spain was chargé des affaires William Carmichael of Maryland. On 14 April he wrote Thomas Jefferson, the American minister in Paris, that: "A general approbation [of the Constitution] will effectually disappoint the hopes of our Enemies of being able to divide us & encourage others to form

connections from a firm assurance of our respectability. The rapidity & success with which our Western lands have been sold astonishes the Corps diplomatic here & all reflecting persons" (Boyd, XIII, 92).

11. For Virginia's action, see RCS:Va., 483, note 2.

12. The Potomac River.

13. On 28 September Congress asked the state legislatures to call conventions to consider the Constitution. On 3 November 1787 and 29 February 1788, the Rhode Island legislature defeated motions to provide for such a convention. Instead, on 1 March, the legislature called for a referendum to be held in town meetings on 24 March at which the voters rejected the Constitution by a vote of 2,711 to 239.

14. An incomplete manuscript draft of "An American," from this point to the end of the essay, is in the Tench Coxe Papers, Series III, Essays, Addresses, and Resource Materials, in the Historical Society of Pennsylvania. The bottom half of one leaf is missing. A dozen and a half minor differences exist between the manuscript and newspaper printing.

15. See Luther Martin, *Genuine Information* V, *Baltimore Maryland Gazette*, 11 January (CC:441). On 9 April George Nicholas wrote to David Stuart that Antifederalist Luther Martin's *Genuine Information* would benefit the cause of ratification in Virginia, "particularly those parts where he speaks of the slaves and the advantages which this government gives to the large states" (above).

16. Writing as "Philanthropos," Tench Coxe had developed this notion when he compared the differences between the three non-signers of the Constitution—Elbridge Gerry, George Mason, and Edmund Randolph (*Pennsylvania Gazette*, 16 January, CC:454). "Philanthropos" was reprinted in the *Virginia Independent Chronicle* on 6 February.

### **Boston Independent Chronicle, 22 May<sup>1</sup>**

*Extract of a letter from a gentleman at Williamsburgh, Virginia, to his friend in Edinburgh, dated January 6, 1788.*

"We are at present in a very miserable situation; neither money nor credit to be had. I have tried to sell all my landed property on purpose to pay my debts; but I cannot get it sold unless for credit, and then I could not recover the money.

"Our Assembly has been sitting ever since last October. They have agreed to pay the British debts as soon as Britain will deliver up the western forts, and pay for the negroes carried off, &c.<sup>2</sup> We are to have a Convention in May next, which, I hope, will give full powers to Congress, otherwise Virginia will be forever lost, or torn to pieces by one another, and it is only by giving full power to Congress that will save us from destruction."

1. This item was printed under a London, 19 March, dateline.

2. See RCS:Va., xxvii.

### **George Washington to Richard Dobbs Spaight Mount Vernon, 25 May (excerpt)<sup>1</sup>**

... I am sorry to find by your letter that the State of North Carolina is so much opposed to the proposed Government.<sup>2</sup>—If a better could be agreed on, it might be well to reject this; but without such a prospect



(& I confess none appears to me) policy I think, must recommend the one that is submitted.

The sentiments of this State will soon be known—The second day of June the Convention is to meet.—Since the election of delegates to it, the prevailing opinion is, that a majority of the members are in favor of the Constitution, but as they are soon to speak their own sentiments it would be imprudent to anticipate them, even, if they were reduced to certainty.—Maryland has ratified by a very large Majority; Sixty three to Eleven.—

1. RC, Tryon Palace Restoration Complex, New Bern, N.C. Printed: Fitzpatrick, XXIX, 501–2. This letter, addressed to Spaight at New Bern, was postmarked at Alexandria on 28 May and at New Bern on 13 June. Spaight (1758–1802), educated at the University of Glasgow, represented North Carolina in Congress, 1783–85, and in the Constitutional Convention, 1787, where he signed the Constitution. He voted to ratify the Constitution in the Hillsborough Convention in August 1788.

2. Spaight's letter of 25 April has not been located. On 3 April, however, Spaight had written Levi Hollingsworth, a Philadelphia merchant, that the Constitution "meets with great opposition here from placemen & debtors & their dupes & adherants" (Hollingsworth Papers, PHI).

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

Soon after the Constitutional Convention adjourned, Edmund Randolph sent a copy of the Constitution to James Monroe. In mid-October, Monroe wrote James Madison and Lambert Cadwalader that, although he had "some strong objections" to the Constitution, the arguments in favor of it "more than counter-balanc'd" those objections (RCS:Va., 16, 55, 56). He did not, however, make a public statement endorsing the Constitution. On 26 October Monroe and John Dawson, Spotsylvania County's delegates in the House of Delegates, sent their constituents the House resolutions calling a state convention, and, without stating their position on the Constitution, they offered their "services in the approaching convention" (RCS:Va., 121–22).

James Monroe was unwilling to commit himself on the Constitution. On 10 April he wrote Thomas Jefferson: "I have it not in my power at present to commit to cypher any comments on this plan but will very soon, I mean concisely as to its organization and powers: nor to give you the arrangement of characters on either side, with us" (above). Three months later, he again wrote Jefferson that "I had no inclination to *inlist myself on either side*, made no *communication* or positive *declaration of my sentiments* untill after the Convention met" (12 July, V below. The italicized words appeared in cypher and were decoded by Jefferson.). In his autobiography (written between 1827 and 1830), Monroe noted that as a member of the House, he "said nothing on the subject. Its powers transcended, the limit, which he had contemplated, but still he entertained doubts, whether it would contribute most, to the interest of the union, to adopt it, in the hope of amending any of its defects afterwards, or of suspending a decision on it, until those amendments, should be previously

obtained" (Stuart Gerry Brown, ed., *The Autobiography of James Monroe* [Syracuse, N.Y., 1959], 49-50).

Because he refused to commit himself, Monroe was not generally linked with either Federalists or Antifederalists when people speculated about the opinions of prominent Virginians. But, before the polling began in Spotsylvania County, Monroe expressed his doubts "to his fellow citizens of the county" (*ibid.*, 50). These doubts did not seem to impress James Hunter because he identified Monroe as a supporter of the Constitution, while referring to John Dawson, Monroe's fellow delegate, as an opponent (to Marianna Hunter, Fredericksburg, 8 March, Spotsylvania County Election, II above). On 9 April James Madison said that Monroe's "precise sentiments are not generally known. If I mistake not, he will be found not an enemy to the Constitution" (to John Brown, above). About two weeks later, Madison told Thomas Jefferson that "Monroe is considered by some as an enemy; but I believe him to be a friend though a cool one" (22 April, above).

By May, however, Monroe had become convinced that the Constitution should not be adopted without prior amendments, and he outlined his objections to his constituents in a twenty-four-page pamphlet. He explained in this pamphlet that, although 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 added to improve the Constitution, Monroe argued, the central government would eventually degenerate into a monarchy.

Monroe hoped to have his pamphlet appear eight to ten days before the state Convention met on 2 June (to Jefferson, 12 July, V below). After the pamphlet was struck off, Monroe apparently sent a copy to 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.) Tucker's reply, if there was any, has not been located, but the pamphlet was not, according to Monroe, "generally circulated" (*Autobiography*, 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, V below).

Monroe probably carried copies of his pamphlet to the Convention in Richmond and gave one to fellow delegate James Madison. (In his autobiography, Monroe listed Madison among those to whom he had given a copy.) In early June Monroe gave a copy to Eleazer Oswald, the courier between Antifederalists in New York and Richmond. On 17 June John Lamb, chairman of the Federal Republican Committee of New York, forwarded Monroe's pamphlet to Governor George Clinton, then attending the New York Convention in Poughkeepsie. Lamb explained to Clinton that Monroe was a member of the Virginia Convention, "which in-

duced *him* (from a point of delicacy) to tear off the Title-Page." (See "The Second Attempt at Cooperation between Virginia and New York Antifederalists," 18 May–27 June, above.)

A couple of weeks after the Virginia Convention adjourned, Monroe sent a copy of the pamphlet to Jefferson in Paris (12 July, V below). He also gave a copy to Edward Carrington, who, upon Monroe's request, eventually returned it to him. Carrington agreed with Monroe's criticisms of the Articles of Confederation, and he answered Monroe's criticisms about Congress' tax power and the federal judiciary (Carrington to Monroe, 15 September, Monroe Papers, DLC). On 15 February 1789, Monroe sent a copy of the pamphlet to George Washington (Washington to Monroe, 23 February, Fitzpatrick, XXX, 213).

Two copies of the pamphlet have been located—both without a title page and both annotated by Monroe. The copy sent to Jefferson is in the Rare Book Room of the Library of Congress. Another copy, more heavily annotated, is in Record Group 59, General Records of the Department of State, Miscellaneous Documents, Entry 836, National Archives. (The National Archives' copy has a covering page with a statement in Monroe's handwriting: "Erasures made in some instances improperly.")

The copy of the pamphlet owned by George Washington was sold several times after his death. In 1897 the pamphlet, owned at that time by Mr. M. Polock, a Philadelphia bookseller, was bound with several other items in a volume labeled "Virginia Journal." (See Appleton P.C. Griffin, comp., *A Catalogue of the Washington Collection in the Boston Athenæum* . . . [Boston, 1897], 474, 535.) Its present whereabouts are unknown.

The printer's errata (on page 24 of the pamphlet) have been incorporated into the text. Alterations made by Monroe that change meaning significantly are noted: deletions are lined out; additions are in angle brackets. In some instances, ink blotting has rendered Monroe's changes illegible.

*GENTLEMEN*, When you did me the honour to elect me into the Convention, to decide for you upon the constitution submitted to the states from Philadelphia, I had not at that time examined it with that attention its importance required, and of course could give you no decided opinion respecting it. Other cares had unavoidably taken my attention from it. After you had reposed that trust in me it became my duty to pay it a more serious attention. Having given it the best investigation that my limited capacity is capable of, and perhaps formed in some measure my opinion respecting it, subject however to alteration when I shall be convinced that I am in an error, I should think myself unpardonable if I withheld it from you. To you it belongs to approve or correct this opinion, for although it would give me pain to be compelled to take a course which my own mind did not approve, yet I have too high a respect for you[r] rights, to[o] just a sense of my duty, and too strong an impression of gratitude for the confidence you have reposed in me, to act contrary to your wishes. Under this impression I have thought proper to make to you the following un-

reserved communication of my sentiments upon this all important subject.

It will readily occur to you that this plan of government is not submitted for your decision in an ordinary way; not to one branch of the government in its legislative character and confined under the constitution to the sphere it has assigned it; but to the people to whom it belongs and from whom all power originates, in convention assembled. In this situation your present state constitution was, or should have been, formed, and in this situation you are of course able to alter, or change it at pleasure. You are therefore to observe that whatever act you now enter into, will be paramount to all others either of law or constitution, and that in adopting this it becomes in reality the constitution of the state, and binding on you as such. Whether it will absolutely annul and do away that of the state is perhaps doubtful; my own apprehension is it will not, except in those cases wherein they disagree; in these it will of course prevail, and controul all the departments of the state government, being the ulterior act of the people. You will therefore perceive it is a subject of great extent and importance upon which you have to decide, and that you owe it to your country, yourselves, and posterity, that it be well examined in all its consequences before it is determined.

When we contemplate the causes that might probably have contributed to make it necessary to submit to your decision the propriety of such a change in your political situation, we are naturally led into one of the following conclusions—either that the morals of the people have become corrupted—that the passions of mankind by nature render them unfit for the enjoyment of equal liberty, or that the form of the government itself under which we live is radically defective, and capable of such improvement, as will extend to us its blessings in a higher degree, and make them of longer duration. Believing firmly that the body of the people are virtuous, at least sufficiently so to bear a free government; that it was the design of their Creator in forming such an order of beings that they should enjoy it, and that it is only by a strange and unaccountable perversion of his benevolent intentions to mankind, that they are ever deprived of it, I will proceed to examine the latter hypothesis which supposes such defects in the present form, as to make a change adviseable. If we find that they really do exist, I will then proceed to suggest such remedies as will enable us comparatively to determine on the merits of that proposed to be substituted in its stead. I feel myself deeply impressed with the importance of this undertaking and am too well acquainted with my own inability, even to hope that I shall conduct myself with propriety through it, but from

a sincere desire to establish a perfect good understanding between us, and prevent the possibility of any future anxiety on this subject, I find myself constrained however painful it may be, ~~and however ungracefully I may do it,~~ not only to avow my sentiments respecting it, but the principles on which they are founded.

The present states were separate, from their first colonial establishments until the encroachments of Great Britain, compelled them into an union for their defence. But as their combined efforts soon promised to erect them into independent governments, the consideration which had united them for a time, and for the accomplishment of one object only, became perpetual, and the wisdom of their councils suggested the propriety of provisions that would secure them from like dangers for ever—under this impression they entered into the articles of confederation on the \_\_\_\_ day of \_\_\_\_, 178 .<sup>1</sup> To this instrument or bond of union therefore we are to look for the strength, or imbecility, for the perfection or demerits, of the present fœderal government. As this is the system whose defects we have to remedy, it will be proper to present to your view concisely a summary of its powers.

The powers which have been given by these articles of agreement or confederation to the general government are extensive.<sup>2</sup> They are to be found principally in the 9th and the 6th articles, in the former positively, and in the latter negatively by a qualification of the rights of the individual states. By the 9th, the United States are authorised to make war and peace—send and receive ambassadors—enter into treaties and alliances, provided that no treaty of commerce shall be made whereby the legislature of the respective states shall be restrained from imposing such duties on foreigners as their own people are subject to, or from prohibiting the importation or exportation of any species of goods or commodities whatsoever—establishing rules for deciding what captures shall be legal by land and water, and how appropriated; grant letters of marque and reprisal in time of peace—appoint courts for determining finally in all cases of captures; appoint courts for the decision of territorial controversies between states and individuals claiming lands under different grants from two or more states, whose jurisdictions respecting such lands have already been adjusted by the said court;—coin and regulate exclusively the value of coin throughout the United States—fix the standard of weights and measures—regulate the trade with the Indians not members of a particular state—establish and regulate post-offices—appoint all officers of land and sea forces, except regimental; make rules for their government and regulation and direct their operations—ascertain the nec-

essary sums of money to be raised for the service of the United States appropriate, and apply the same—borrow money and emit bills of credit on the faith of the United States—build and equip a navy—agree on the number of land forces and make requisitions for the same. Provided that none of the said powers shall be exercised without the consent of nine states. By the 6th, the individual states are prohibited from sending or receiving embassies, entering into conferences, treaties or alliances with any foreign power, and the servants of the United States or individual states from holding offices of profit or trust under any foreign prince or potentate whatever—from partial confederacies without consent of Congress—from keeping up troops or vessels of war in time of peace except such as shall be approved by Congress—entering into a war with a foreign power unless invaded by an enemy—from granting letters of marque or reprisal except after declaration of war by the United States and then under particular restrictions only.

These articles give all the efficient powers to the United States—The 1st, 3d, 4th, 7th and 8th, although they establish some fundamental principles on which the government is to move, and especially the 8th the rule of apportionment, yet they give no real power; they are rather the rule by which the power already given is to be used than that they give any themselves. The 10th, 11th, 12th and 13th, fall still more under this exception or regulate other inferior objects of compact. But the 2d and 5th are of a different impression. By the former, each state retains its sovereignty, freedom and independence, and every power, jurisdiction and right, not expressly delegated to the United States and by the latter, that of appointing, continuing, or removing its own delegates at pleasure. These are the powers, and this the form, of the present government.

An attentive view of the subject will satisfy us that these powers are really great and extensive; they appear to have contemplated the greater part of those concerns wherein it might be supposed they had a national interest. Having made the United States the sovereign arbiters of war and peace, given them the right to require men and money, equip fleets and armies, to send and receive ambassadors, make treaties of alliance and commerce, with the very extensive catalogue which I have already enumerated, except the regulation of trade there seemed to be little left of external policy to the individual states. It is not my object to inquire here whether these powers should be more extensive. I may in the course of these observations; at present I shall examine more particularly the effect or operation of a government organised like this.

It is to be observed that by the 2d article the individual states retain

their respective sovereignties, jurisdictions and rights in all cases not expressly ceded to the confederacy. And by the 5th they reserve the right of appointing, continuing or removing their respective delegations at pleasure. To these articles we are to look for the tone and character of this government, for upon these does its good or bad qualities depend. It is upon this point, that the present commotion hath taken place in America, and upon the merits of which we have to decide.

The deputies from each state being amenable for their conduct, and depending on it for their hopes and prospects, necessarily negotiate for its interests. This property or distinction pervades the whole body, and thus their general council or the Congress becomes a diplomattick corps, or a corps formed of ministers or representatives from sovereign states acting for the particular advantage of that to which they belong. The efforts therefore of each state, whatever may be the powers of the union over the several members that compose it, will be to shield itself from the common burdens of the government; and to effect this all the arts of intrigue and negociation will be constantly exerted. What is the obvious course of a government organised on such principles? Are not the seeds of dissolution deeply ingrafted in it? The most powerful principles of human action the hope of reward and the fear of punishment are in the hands of each state, and whilst mankind are subject to their influence, or the passions and affections of the human heart continue as they have been, its course will always be the same. This government it is manifest can never be an efficient one. Strong necessity and eminent danger may make it so occasionally, but whenever this cause ceases to operate, its repellent principles will prevail. If this position is just, I am perhaps right in supposing it a consequence necessarily resulting from it, that the stronger the powers of the government are, the more repellent will its qualities be, and the sooner its dissolution; at least certain it is that the conflict between the general and state governments, will be proportionally more violent, and its or their ruin the sooner accomplished, ~~for it must soon terminate either in that of the one or the other, I mean as an efficient government.~~ The higher toned those of the states were the more rapid would the progress be. I think I may venture to affirm that a confederacy formed of principalities would not last long, for the pride of princes would not brook those familiarities and insults which a free discussion of rights and interests, especially if they interfere, sometimes unavoidably occasions; and when an absolute prince takes offence he wields the state with him. But this is not the case with democracies, for although their chief magistrates may be offended, yet it is difficult for them to

communicate at the same time, the same passions and dispositions to the whole community which they themselves possess. This is a caution however which I hope it is not necessary to suggest here, for I am satisfied the state governments will never take this turn of themselves, nor whilst that of the confederacy is preserved and properly supported. But to carry this government a little further into practice.

Let us submit the concerns and interests of different states or individuals within them to this corps formed of representatives from each negotiating for that to which they respectively belong, and what kind of justice may we expect from its decisions? If magazines were to be established or troops raised and stationed in some quarter of the union for public defence, might we not expect that these arrangements would take stronger bias, from the combination of the day, than any sentiment of propriety? If states or individuals within them had claims founded on the same principles with those upon which a decision had already been had in favour of others, are we to calculate with certainty upon a similar decree? In short apply it to every case that may possibly arise, either of states or individuals, in the full scope of its powers, and we shall find its decisions depend, more upon negotiation, the bargain of the day, than any established maxim of justice or policy.

On the other hand how are its treaties, laws, or ordinances to be carried into effect? Are they of authority and in force immediately within the states as soon as they are passed? Or does it require the intervention of a state law to give them validity? And if the law is necessary may not the state refuse to pass it, and if she does how shall she be compelled? It is well known from the practice of all the states in the confederacy that no act of Congress, of what nature soever it may be, is of force within them, until it is recognized by their own legislatures, prior to that event it is a nullity, and to that only does it owe its authority. This view of the subject demonstrates clearly that the present government, in its ordinary administration, though a league of independent states for common good, and possessed of extensive powers, must always be void of energy, slow in its operation, sometimes oppressive, and often altogether suspended—that it can never be calculated on by foreign powers, and of course that they will form no treaties or compacts whatever with it, that stipulate any thing, at least on equal terms, that in fine very little dependence can be placed in it by the states themselves, for destitute of the power of coercion, to say nothing as to the justice or propriety of the measures themselves, these will not be forward to comply with its demands, whilst those may refuse with impunity. On the other hand the illustrious event which hath



placed them in the rank of independent states demonstrates with equal certainty, that it is competent to external defence, and perfect security from abroad, for how otherwise could it have been atchieved? These are the defects or the principal defects in the form of the present government, and they are inseparable from a league of independent states, for to that circumstance, and that alone they are to be attributed. We have then to weigh these evils, and compare them with the probable benefits and dangers that may accompany a change, and then see in which scale the balance preponderates.

It may be now asked are we reduced to this alternative either to subvert the state sovereignties or submit to these evils? Is the state sovereignty a vain and illusory hope, is it incompatible with its own and the general interests of the confederacy? Or is there any other alternative? The practice of nations and the field of enquiry is open before us, and we have every thing that is sacred and dear to mankind depending on the event. Two species of remedy only present themselves to my mind, and these contemplate either a complete annihilation of the state governments, or a partial one or considerable reduction of their powers. A complete annihilation and the organization of a general government over the whole, would unquestionably remove all the objections which have been stated above, and apply to it as a foederal government; and I will be free to own that if it were in reality a practicable thing, there is no object which my mind has ever contemplated, the attainment of which would give it such high gratification. To collect the citizens of America, who have fought and bled together, by whose joint and common efforts they have been raised to the comparatively happy and exalted theatre on which they now stand; to lay aside all those jarring interests and discordant principles, which state legislatures if they do not create, certainly foment and increase, arrange them under one government and make them one people, is an idea not only elevated and sublime, but equally benevolent and humane. Whether it contains within it a territory as extensive as the Russian or German empires, or is confined in its operation to the narrow scale of their smallest principallities or provinces, yet it is the business of state legislation to pursue its destined course "the interests of those who live under it." For a legislature to contemplate other objects, and make a sacrifice of their own for the good of other people, or even decline availing itself of the legitimate exercise of its powers for that purpose, upon every opportunity which chance or fortune may present in its way, is a degree of liberality to which the human heart hath not as yet attained. A society of philosophers of the antient stoick sect might perhaps be capable of such extended philanthropy,

but this sect is now altogether at an end, and at its height, never formed but an inconsiderable part of any community, and was by all the rest of the world considered as affecting objects without the pale of human nature. How much more delightful therefore is it to the mind to contemplate one legislature organized over the whole continent, containing all the free inhabitants of the American states within it, nourishing, protecting, and promoting their interests in every line and extending its genial influence to every part; commerce flourishing, arts encreasing, lands rising in value, with all those other happy concomitants that attend a well formed and wisely directed government, than thirteen different legislatures, in pursuit of local objects, acting upon partial and confined considerations, without system or policy, jealous of their particular rights, dissatisfied with, and preying upon each other. If it were practicable, I should embrace this change with the utmost pleasure, and consider it the goal at which all our efforts should bend, the polar star that should direct all our movements. I should consider the abolition of the state legislatures as a most fortunate event for America, and congratulate my country on the commencement of a new aera in her affairs from whence to date the dawn of better hopes and happier days. But is it practicable, can it be accomplished? Can a legislature be organized upon such principles as to comprehend the territory lying between the Mississippi, the St. Lawrence, the Lakes, and the Atlantic ocean, with such a variety of soil and climate, contain within it all the vital parts of a democracy, and those provisions which the wisdom of ages has pointed out as the best security for liberty, and be at the same time a strong, efficient, and energetic government? Would it be possible to form in every respect a complete consolidation of interest and how otherwise would its operation affect the weaker party? Or to accommodate its legislative acts so as to suit those of a local kind that were variant in the nature of things? To form a system of revenue, by direct taxation and excise, regulate the mode of collection, supervise it, without the establishment of a train of officers, and tribunal under tribunal, that would not be enormously expensive, free from more than ordinary imposition, and preserve the spirit of the government? Separated at the distance of near 1200 miles, suppose the dispositions to do right the best that nature can infuse into the human heart, generally speaking in the operation of the government, will the man of Georgia possess sufficient information to legislate for the local concerns of New-Hampshire? Or of New-Hampshire for those of Georgia? Or to contract it to a smaller space of New-York for those of Virginia? Will not of course most of its measures be taken upon an imperfect view of the subject? A wise legislator should possess a precise knowl-

edge of the situation and interests of all the territory and of the state of society, manners, and dispositions of the people within it committed to his care. Some men perhaps to whom a kinder fortune had dispensed her more liberal gifts, who had devoted their earlier life to travels, general science, and those researches that were particularly necessary for it, might succeed, but unfortunately for us the most sanguine admirer of this plan, could not promise to America that her national councils, should always be filled with men of this stamp. I would not wish to discolour this plan of a complete national government, acting in all cases for the common good, to the exclusion of subordinate legislatures, so delightful in theory, with the reverse of this picture, nor to depaint those consequences which might result from its maladministration, if instead of the best qualities that are the portion of humanity, it should be its fortune to have its councils filled, with men remarkable for their ignorance, or any great malignity of heart, contending against difficulties, under its best form and with its best hopes, which perhaps are insurmountable, what would be its situation and issue in that event? As this subject is of great importance and leads to a decision upon an important trait in the plan of government now before you, it will be proper to give it a more particular investigation.

Perhaps an attention for a moment in this respect to those political establishments which have been erected in different quarters of the globe, in antient and modern times, may furnish an instructive lesson, upon the present occasion. In but few instances, and those at distant intervals of time, hath a democracy or government of the people ever been established. To what cause it is to be attributed, philosophers and statesmen may differ, but it is an unquestionable truth, that there hath been a constant effort in all societies, to exterminate it from off the face of the earth. The contest hath been often violent, and the manly exertions which the friends of equal liberty, have made against this disease of human nature, is the great, the instructive subject of history. They have had to contend against difficulties thrown in their way by all ranks of society: If the poor and those in moderate circumstances only, where an union might have been expected had united, a tyranny had never been erected. But the ignorance, the folly, and often times the vices of the lower classes have perhaps favoured this tendency as strongly as the lust for dominion and power in the wealthy. To illustrate this position by a review of the commencement, progress, and decline of those nations with which history furnishes us examples, with the causes that have contributed to hurry them to this their last stage, would not only present to your view a melancholy monument of the weakness of human institutions, but lead me beyond the bounds

of the present enquiry. Be assured however there is no fact better established by history, than this tendency or effort in all societies, to defeat the purpose of their own institution, and terminate in despotism. If then we are not the unfaithful guardians of those rights, which an all gracious providence hath bestowed upon us, should we not attend to every circumstance that may contribute to preserve them? And will it be questioned, that the extent of territory is one of those that will have no influence on the subject? The governments that have been purely democratic, to which only we should resort for satisfactory information upon this head, if any ever were, are but few. In several it is true the people have had some share of power, as in that of Rome. But it cannot be questioned that in this the Nobles or aristocracy had the prevailing influence. The endless quarrels between the different branches or rather orders of the people, the Senate and plebians, is perhaps the real cause of the perpetual warfare and extensive conquests, made by this rapacious mistress of the world. When the people became incensed against the Senate, as they often had reason to be, the latter had always sufficient address, to give their passions other objects to act on, by turning them against foreign powers. With this view it seems to have been a political maxim with that branch, in whose hands the executive authority was also lodged, never to be at peace with all nations at the same time, and in this they succeeded tolerably well, for from the commencement to the final dissolution of the empire, the temple of Janus, always open in time of war, if we may credit the tradition of their best historians, was hardly ever closed. But so soon as the whole globe had acknowledged her authority, and bowed beneath the yoke, the immense fabric she had thus raised fell to pieces. External opposition that had raised it to the height it had attained, having ceased, its foundation was taken away. There was no principle within it to unite its parts together. From this it is to be presumed that if her government had been organized upon harmonious principles, and made the people happy under it, her dominion would never have extended over more than one-tenth the territory it did. But be this as it may, the government of Rome acknowledged distinct orders of people, in which indeed the aristocracy prevailed, and can of course furnish no example for us. This may be said of Lacedemon and of Carthage, for according to the opinion of a profound historian and observer on the subject of government, that of Carthage was also divided and the greater portion of power taken from the people and placed in the hands of the aristocracy.<sup>(a)</sup> If any ever were, Athens, Thebes, and Corinth, were for a time, pure democracies. But shall we draw our conclusion from their example, whose jurisdiction was more

confined than that of some of our smallest states? In short, let us contemplate what forms, in what countries and times we please, where the rights of the people, and the spirit of liberty, were in any degree preserved, and we have the most solemn admonition to beware even making the attempt. The monarchy of Britain in which the executive power is armed with almost despotic authority, comprehends within it a territory smaller than that of this commonwealth, and yet it is believed its administration is happier than if it were more extensive. Even the king of France, sensible that his government will be happier for his subjects, and more faithful and beneficial for himself, has shewn a disposition to re-establish the provincial assemblies for this purpose, yet it cannot be denied that his powers are otherwise sufficiently great, or that any monarch was ever, in a greater degree, or more deservedly beloved by his people. But if these examples are not sufficient to warn us of the fatal consequences that will attend the vesting such powers in the Congress, let us turn our attention to those nearer at home, and which perhaps will make a deeper impression on our minds, and do we not behold the province of Maine separating from Massachusetts, Vermont from New York, Wyomin[g] from Pennsylvania, and the district of Kentucky from Virginia, on this very principle, with others no less striking that might be enumerated.

It is true the improvement of government under this form, by representation, the discovery of which is attributed to modern times, might make some difference in this respect, but are there no bounds within which it should still be restrained? Shall it attempt things that seem from the concurrent testimony of all history to be the appropriate object of despotism? Maladies that are incurable after they have afflicted the body with all the pain and anguish incident, to a frail and feverish being, exhausted its efforts, and worn out its constitution, complete the work by terminating its existence. This government too, after having experienced the vicisitudes of fortune that might accompany its natural imperfections, of laws badly formed and indifferently executed, of anarchy disorder and confusion, after having worn out and broken the spirits of the people, would also have its end. But what form it would then assume is left for time to develop. The diseases of every government suggest its remedy. Other circumstances it is true give it a byas, but these have a principal influence in directing its course. Those of the federal system and which owed their birth and enormity to the want of strength in the federal head, had disposed the people to agree to an annihilation of their state governments, which yielded to the present one. Had this change been accomplished, by the designs of wicked and abandoned men, by the usurpations of a

tyrant, or the seductions of art and intrigue, it is to be presumed, and the experience of other countries hath approved it, that the people would now return to that they had forsaken, with a degree of zeal and fervor proportioned to the sufferings they had borne.<sup>(b)</sup> But if a long and patient experience had shewn its defects, a calm and dispassionate appeal had been made to their understandings, and a recollection of the great calamities, it had inflicted on them, demonstrated it was neither calculated, for the care of their liberties, their safety or common interests, they would make a new experiment and take a different course. From the causes above stated the incapacity of the legislative branch to form happy, wise, or uniform laws for the government of a territory so extensive, and of a people in pursuit of objects so opposite in their nature, had perhaps already often clogged its operations and suspended its course. This had gradually alienated the affections of the people and created in them a contempt for this branch of the government. The powers of the executive had of course been proportionably increased, for it is natural for the latter to supply the defects of the former. Accustomed to behold it in miniature, and to derive relief from its friendly interference, the people are at length prepared to have recourse to a Royal government, as the last resort the only safe assylum for the miserable and oppressed. And this perhaps would be the issue of the present (a consolidated) government; and for these reasons I should dread its establishment over these states. For to however low and pitiable a condition we may have fallen; however deservedly we may have acquired the contempt and scorn of nations, yet I had rather submit in peace and quiet, to those reproaches which the proud and disdainful may throw upon us, than by commencing on a stage upon which the fortunes of all nations have been wrecked, however splendid and meteor like our transient exhibition might be, risk the enjoyment of those blessings we now possess.

But may not some middle course be struck, some plan be adopted to give the general government those rights of internal legislation necessary for its safety, and well being, in all cases, and yet leave to the states other powers they might exercise to advantage? If by this it is intended to comprehend the right of direct taxation and excise with the absolute controul of the resources of the union, it will be easy to perceive its consequences. Those who are in any degree acquainted with the principles of government, or with those of the human heart well know that upon this point, the equal distribution of the resources of the union, between the two governments, will their balance depend. If you place the whole into the hands of one, it will require no casuistry, no great degree of depth in this science to determine which will pre-

ponderate. Acting on the bowels the body will soon decay and die away. The pageant ornaments and trappings of power will not last long, for the reason and good sense of mankind turn with disgust upon the mockery of empty forms. Such an arrangement would therefore in my apprehension, embark us on a more perilous and stormy sea, than even a complete annihilation of the state governments.

If then such a government as I have above described in either view presents an impracticable alternative, or such an one as we should not without a nearer and better view of it embrace, the other mode only remains or that which proposes the organization of a general government over the states forming a part of and acknowledged by the constitution of each, leaving at the same time a qualified government in each state for local objects. Let us examine this then since it is the only safe or even plausible course for us to take.

To organize a general government, that shall contain within it a particular one for each state, or in other words, to form a constitution for each state, which shall acknowledge that of the union, is no easy thing, for there never was an example of the kind before. The Amphictionic council, Achæan, Belgic, or Helvetic confederacies were but leagues of independent states, somewhat similar to the present one. To mark the precise point at which the powers of the general government shall cease, and that from whence those of the states shall commence, to poise them in such manner as to prevent either destroying the other, will require the utmost force of human wisdom and ingenuity. No possible ground of variance or even interference should be left, for there would the conflict commence, that might perhaps prove fatal to both. As the very being or existence of the republican form in America, and of course the happiness and interests of the people depend on this point, the utmost clearness and perspicuity should be used to trace the boundary between them. The obvious line of separation is that of general and local interests. All those subject[s] that may fall within the former distinction, should be given to the confederacy, and those of the latter retained to the states. If the federal government has a right to exercise direct legislation within the states, their respective sovereignties are at an end, and a complete consolidation or incorporation of the whole into one, established in their stead. For in government it is, as in phisicks, a maxim, that two powers cannot occupy the same space at the same time. Let this therefore be the characteristic line of the division; internal legislation or the management of those concerns which are entirely local shall belong to the states, and that of those which have a foreign aspect, and in which they have a national concern, to the confederacy. In forming a con-

stitution on these principles, the same rule should be observed, that has been informing those of individual states; defining the powers given and qualifying the mode, in which they shall be exercised. All powers not ceded it is true belong to the people; but those given in a constitution are expressed in general terms, as that the Congress shall levy and collect duties; this involves in it the right of making laws for the purpose, for the means are included in the power; otherwise it is a nullity. The species of evidence and the mode of trial are subordinate objects under it, and does it not follow that the Congress might regulate these at pleasure? How are we secured in the trial by jury? This most excellent mode of trial which has been found, in those few countries where it has been adopted, the bulwark of their rights, and which is the terror of despotic governments, for it disarms them of half their power, is but a matter of police, of human invention; if then we gave general powers unless we qualified their exercise by securing this, might they not regulate it otherwise? I would not be understood to insinuate it would be the case, but that it were possible is improper. The spirit of the times might secure the people of America perhaps for a great length of time against it; but fundamental principles form a check, even when the spirit of the times hath changed, indeed they retard and controul it. As it is with the trial by jury so with the liberty of conscience; that of the press and many others. As to the powers themselves, the distinction being drawn, the enumeration would be of course. To those of the former Congress some few might be added, or from those of the constitution, some few taken away, for nominally there is not so great a difference between them as some people suppose. To the former for instance, let the absolute controul of commerce with the revenues arising from it be added. Let the right of apportionment be as in the constitution, for the ground on which the states have met on that point is certainly a happy compromise being that indeed which had been long recommended by Congress.<sup>3</sup> Let them regulate the disciplining and training of the militia—the calling them forth and commanding them in service; for the militia of a country, is its only safe and proper defence. All countries are more or less exposed to danger, either from insurrection or invasion and the greater the authority of Congress over this respectable body of men, in whose hands every thing would be safe, the less necessity there would be, to have recourse to that bane of all societies, the destroyer of the rights of men, a standing army. But it may be urged the revenues from the impost would not be sufficient for national purposes, and that without the right of direct taxation, the government would be forced to have recourse, to the expedient of requisitions, the inefficacy of which had



already been sufficiently experienced. The position in the first instance, as to the insufficiency of the revenues is doubtful; but the apprehension of the states neglecting requisitions under this, as they have done under the late government still more so.<sup>4</sup> When the United States became in effect a national government, by being incorporated with those of the states, possessed considerable revenue, had at their command a fleet and army, with the absolute controul of trade; I cannot but believe that their constitutional demands, or requisitions, would be complied with. Let the individual states also be restrained from exercising improper powers, making war, emitting paper bills of credit and the like. All restraints that were necessary for the wise administration of a good and virtuous government, would have my ready assent. It is not my intention to draft a form, a general idea is all I aim at, and in this perhaps I am tedious.

Having defined the powers, marked the line between, and secured as far as possible the harmony of the two governments, by making the former a part of the latter, it will be necessary to organize it upon such principles, as to secure the wisdom and happiness of its administration; for I presume it does not necessarily follow, because the constitutional acts of the government will be executed and become the laws of the land in each state that our researches should be at an end, and that we should conclude we had remedied all the defect[s] of the present one. On the contrary our anxiety should be increased tenfold. From that our safety was to be attributed to its imbecility; but from this we should not be able to shelter ourselves under that protection. We should therefore be the more zealous, proportioned to the prize we have at [s]take, to distribute the powers and poize the government, so as to secure equal justice in all its acts, to every part of the confederacy; for wretched and forlorn will the condition of that be, which shall not find itself equally secure under the protection, and in the enjoyment of its blessings, with every other part. From *royalty* (despotism) itself, where the power is concentered in but one person, fluctuating in its systems and unsettled in its course, sometimes a ray of benevolence and even of justice is reflected on those whom it had marked out as the object of its resentment. Nature has cast into but few characters such malign and unfriendly dispositions, that their revenge cannot be satiated. But from a combination of states, acting systematically in pursuit of particular and local interests, wielding in their hands the powers of the government, and of course secure not only from censure but of the approbation and applause of those whom they served, however severely the attainment of the objects it contemplated, might bear upon the interests of the unfortunate minority, yet

from their justice, it is to be feared, that neither moderation nor even mercy could be expected. But the present system is that we have to remedy and we should never loose sight of its defects. If the new government should be organized in the same manner with the old, consist of one branch only, each state appoint her own delegates and recall them at pleasure, I am satisfied it would in the administration in Congress, or passage of the acts, be found in the experiment in that respect, just such a government as the other. There would be the same negociation, intrigue and management for the advantage of each state that now prevails. Its movements would be as slow and its decisions as unjust as they sometimes have been. In short it would still be a government of states in every respect and not a national one. How then shall we guard against, check and controul this intolerant and destructive state spirit? How infuse into all its departments a love, respect, and dread of the whole, for upon this [e]very thing depends?

It has been long established by the most celebrated writers, but particularly illustrated and explained by the President Montesquieu and Mr. Locke, that the division of the powers of a government over one state, or one people only, into three branches, the legislative, executive, and judiciary, is absolutely necessary for the preservation of liberty.<sup>5</sup> This is now admitted by all who are not the friends of despotism, and I am persuaded it has already been demonstrated in the course of these observations, that such a division is, if possible, more necessary in a government to be organized over more than one. Taking this position then as established, I will proceed to an examination of the principles upon which this organization should be formed.

If the states as such or in their legislative character appoint any of the officers of this government, the effect will be the same, provided the rotative principle is preserved, which will I hope never be given up, that has already been experienced; for in the appointment is involved that of responsibility. It should therefore proceed from the people immediately, or by means of electors chosen for the purpose. This will make them amenable to the people only for their conduct, or to such constitutional tribunals where they are practicable, as they shall establish to take cognizance of offences. This we apprehend would contribute much to the establishment of a national government; each would move in the sphere the constitution had appointed for it, and be accountable to the people only for their conduct, the high and pure source, from whence they respectively derived their authorities.

The legislative branches are in all democratic governments, and of course would be so in this, the immediate representatives of the people.

They should therefore be kept as dependent on them as possible, having in all respects the same interests with themselves. For offences in these branches the general government can provide no punishment, for there can be no tribunal under it, to take cognizance of them. Charges of corruption or prosecutions for it, or other offences, committed by those in these branches, should not be allowed from those in the others, for this might either unite them in mal-practices against their country, or create endless strife between them, and thereby destroy the balance of the government. A free people are the only proper judges of the merits of those who serve them, and they only should bring them to justice. This shews the necessity of frequent elections. The members of each should in my opinion return to the body of the people, those of the house of representatives at the expiration of every two years, and those of the senate of every four years, capable however always of re-election. Both these branches should if possible be filled on the principles of representation from all the states. For the house of representatives, the rule adopted in the constitution, is perhaps the proper one. Let twice that number, or a still greater ratio of numbers to that of representation, be the rule for the senate. The members of both branches should be incapable of appointment to other offices whilst in these, otherwise a wide door will be left open for corruption. This is not an idle or visionary precaution, but in a great measure the pivot, upon which the upright and faithful administration of the government will depend. The experience of Britain hath demonstrated, how often the most valuable interests of the people, have been bartered away, by leading members of the house of commons for a seat in the house of peers, or some lucrative office in the government; how much greater then should our apprehension be, of danger in the present instance, when we recollect that the government is organized upon such principles as to acknowledge no responsibility to the states, and comprehends within it such an extent of territory, as to put it out of the power of those who inhabit its extremities, to have any knowledge of the conduct of their servants! The possibility of this kind of traffic should therefore be absolutely prohibited.

But the power of the legislature should be confined to those objects, which were intirely legislative in their nature, as the regulation of trade, requisitions for money, and the like. The soundest authorities and the melancholy experience of our state governments have shewn the propriety of this restraint, in a constitution over one state, and for reasons that are obvious the expedience, will be the more urgent, in the present instance. Its natural effort in all cases is, to grasp to itself all the powers delegated from the people,<sup>(6)</sup> and to prostrate the other branches be-

fore it; stimulated on by the state spirit, which will in some degree still remain, the difficulty here will be proportionably increased. The ingenuity of man can devise no other, without an appeal to the people, which if possible should always be avoided, than that of giving the Executive, the other active branch an absolute negative on the laws; for otherwise its enterprizes must be successful. Many restraints might be designated by the constitution, but without effect. And from this at the same time that it preserved the balance of the government, no injury could be sustained. Against the encroachments of the Executive the fears and apprehensions of the whole continent would be awake, with a watchful jealousy they would observe its movements. But against the legislature (if we may reason by analogy of that branch in this) from those in other governments, no such apprehensions could be entertained. Its movements comparitively would be accompanied with the confidence of the people. Every incroachment upon its rights would be popular. In every contest between them it must of course yield the ground. In short unless the Executive had a negative on the laws of the legislature, it would soon exist only in name.

The right of impeachment and the mode of trial are of the first importance in this government. The former, if with the people or even the states themselves, would never be exerted or greatly abused; it should therefore belong to the house of representatives. And the latter should be vested in a court of that high confidence and respectability of character, as to partake of none of those passions that sway the bulk of mankind. Unconnected by office, and of course no way interested in the event; unacquainted with the crime except as it might appear before them by satisfactory testimony, they should hear calmly and judge dispassionately upon the merits of the cause. From their decision the guilty would receive a fair condemnation, or the innocent be restored again to the confidence of their country, and the people return satisfied that their passions had been awakened, and their fears alarmed without any just foundation. The sentence should be final, and not shifted off to another tribunal. A further prosecution may appear odious, and the just resentments of the people calm away, and totally subside. For these reasons the senate should form the court of impeachment.

But although the legislative branch shall be elected by the people, and amenable to them alone for their conduct, yet as the state sovereignties though qualified, will still remain, and of course the state spirit, in contradiction to a fœderal one, from necessity be more or less influential in its councils, we should turn our attention to the other branches of the government, as our firm resource. The Executive

is that upon which, in many respects, we should rest our hopes, for an equal, a foederal, and a wise administration. Every possible effort should therefore be used to expell from the hearts of those who fill it, a preference of one part of the community to another. The experience of other governments hath taught us, it is possible to devise checks, which from motives of policy and private interest, will even make bad men faithful public servants. The prospect of reward and the fear of punishment, as has already been observed, are the most powerful incentives to virtuous action. It should therefore be so organized, as to give every quarter indeed every man of the union, under the influence of these principles, as to those who fill it, an equal access to the human heart, whenever this equipoise is destroyed, and this high character taught to look up to this, or that state, or combination of states for the smiles or the frowns of government, from that moment will its oppression be felt, and a dreadful anarchy insue. And if you take from those whom the choice of their country hath called forth to this high station, the hope of further favour, and mark to them the extent of service, after the completion of which the door shall be forever closed upon them, in that degree will you deprive yourself of one of the principal instruments by which you are to preserve the equilibrium, and secure the public safety. Discharged forever from the service of the United States, will not the approbation of the union, cease to be the ruling passion, and an accommodation to state interests take its place and influence many of the public measures? For these reasons I could wish to see the right of impeachment, extended upon as liberal ground as possible, given for instance to the representatives of one third of the confederacy; and I could likewise wish to see the citizen at the head of this department, capable of re-election at the expiration of his service which should be at the end of every three or four years, so long as he should merit the confidence of his country.

The mode of election should also be a fundamental in the organization of this branch. If the command of this office was placed within the reach of court influence, the most alarming consequences were to be apprehended from it. If the ultimate decision should happen at the metropolis, it is easy to be perceived what an opportunity this would present for venality and corruption. It must be a great object particularly for either France or Britain to have the friend of their respective courts in this office, possessed of such extensive powers and which might dispense such important favours to them. The influence of the presiding magistrate himself, especially within the town in which he had for some time resided, and to whose citizens he had rendered many substantial services, and who of course would be averse to the

introduction of a *novus homo* among them, would not be inconsiderable. In addition to which it is to be observed, that it forms a departure from a principle which should prevail through the whole, but particularly in the organization of this branch, a dependance of this officer, for every thing estimable among mankind, upon the people of America. By the people therefore should the appointment be made, not in person, but by the means of electors chosen for the purpose. To prevent the possibility of any interference, or byas on their free election, that of the electors by the people, should be on the same day in every state, and that of the President by the electors likewise on the same day and at some specified place in each, unless an invasion, or other extraordinary circumstance should prevent it; in which case perhaps the electors themselves, or the executive of the state might appoint some other. Whatever time might be employed in this mode of election is immaterial; it is of the first importance, and should never be dispensed with, that he be thus appointed.

But high power(s) in the Executive branch require in every respect, a direct and immediate responsibility; for although it should be so organized as that whilst to those who fill it, and act with propriety in the discharge of its functions, the door should be left open for a continuance of public favour, yet the sword of justice should be held constantly suspended over the heads of those, who shall be convicted of having basely sacrificed the interests, or made attempts upon the liberties of their country. There should be no constitutional restraint, no equivocation of office, to shield a traitor from the justice of an injured people. No circumstance to blunt or turn aside the keen edge of their resentment. With the charge should the powers of his office cease. He should stand alone unsupported, and unprotected except by the integrity of his heart and the rectitude of his conduct. For these reasons the executive power should be vested altogether in one person; unrestrained by a constitutional council, its operations will be more easy and regular, and its responsibility the greater and more immediate. And for these reasons if there is a constitutional council it must be from its nature the most improper tribunal, that can be formed or conceived, for the tryal of the offences of the principal, since they must be either partakers of the crime, or some way or other a party interested in it.

With an Executive organized on these principles, being independent of the legislature, and in a very responsible situation, I should be well content to intrust great powers, because I should calculate with tolerable certainty upon an honest and a wise execution of them. The constitution perhaps suggests those, with some exceptions that are

proper; whether it would be safe to give it the absolute controul of the fleet and army at all times, in peace and war, the ordering them out, and laying them by, without consent of the legislature, or even knowledge, is at least doubtful. In Great Britain this power may be committed to the King with propriety; but he is the Lord of hereditary dominions, and transmits the inheritance in his line forever. By betraying his trust he might lose his crown, and perhaps gain nothing, even if he established despotism. But with the President who perhaps depends on a quadriennial election the case is different. It is certainly a formidable power to place in the hands of any one public servant. I would however in no event interpose the opinion of the legislature, so as to controul the movements of these forces, but merely to affix the condition, or emergency, upon which his absolute power over them should commence. As I would repose the whole trust of this department in one officer, so he alone should be responsible for all its transactions. He might associate whom he pleased, of the wise men of America in his councils, but they should be of his own association. An allowance might be made him, to compensate them for their services, for which he should be accountable.

Controversies between independent nations are usually settled by the sword. It is to the misfortune of mankind that no tribunal has ever been established to adjust their interfering claims, and enforce its decrees. It has been the defect of all other confederacies, of whose institutions history has given us any account, that although attempts in some have been made in this respect to preserve the harmony, and lessen the calamities of mankind, yet the courts to whom their controversies have been submitted, the council or representative body of each, have not been organized on such principles as to insure justice in all their decisions. To this circumstance perhaps many of their calamities were to be attributed. The framers of the confederation in some degree also fell into this error for those only of a territorial kind were to be submitted to a fœderal court.<sup>6</sup> Under that form its inconvenience has been often very sensibly felt, but under the present it would be insupportable. Great care should therefore be used, in the organization of this branch, to remedy this defect. The judiciary in this, as in all free governments, should be distinct from, and independent of the other branches, and equally permanent in its establishment. Performing its appropriate functions, the extent of its authority should be commensurate with theirs. As it forms the branch of a national government, so it should contemplate national objects only. Whatever cases might arise under the constitution, the laws of the legislature, and the acts of the Executive in conformity thereto,

(however trifling or important the interests it affected might be) should have their final decision from this court. All cases affecting ambassadors, other public ministers and consuls—of admiralty and maritime jurisdiction—all controversies between different states—between the United States and a state—a state and the citizens of another state, citizens of the same state claiming lands under different states, should of course be submitted to its decision. In cases affecting ambassadors, other public ministers and consuls, and in which a state shall be a party, the Supreme Court should have original jurisdiction; in the other cases above mentioned appellate jurisdiction as to law only, and from the Supreme Courts of the respective states. The laws of the United States becoming under the constitution those of each state, their courts of course take cognizance of them, from whose decisions, the object of the union will be completely answered by an appeal to their court as to law only, and with great accommodation to the interests of the people. In the organization of this branch, the object should be to found it on the state establishments, and not independently of them, for in the latter case new and very extraordinary difficulties present themselves to view, among which the clashing of jurisdictions would perhaps be the least important. The judges should be appointed by the President, who would of course take them from among the meritorious of our citizens in the different quarters of the union.

Having shewn the defects of our present federal system, pointed out those remedies or amendments both as to its powers, and their distribution or organization, that have appeared to me advisable, I am naturally led in conformity to the plan I had laid down in the beginning of these observations, into a more minute comparison or examination, of the constitution now before you, by the standard or test of those principles I have endeavoured to establish. And this I will confess, is the most painful part of the present enquiry. But where there is a contrariety of sentiment, in any degree, there can be no other mode of investigation; and it is I am persuaded the fairer course, for if the principles themselves cannot be supported it necessarily results, that all reasoning or deductions from them fall to the ground.

It may be recollected that I have not objected to any of those powers which were necessary to add, to the energy, strength, resource, or respectability of the government, but have fought to divest it of those only which I conceived it could never exercise, were impracticable, and whilst they remained even if not brought forth into action, would lessen it in the confidence of the people, but if ever exerted prove the source of endless strife between the states and the general government, that must terminate in the ruin of either the one or the



other, which I have considered, (perhaps improperly) as a great national calamity. Those to which I have particularly alluded are the right of direct taxation and of excise through all the states; and the more I have reflected on this subject the better satisfied I have been, that if the other powers were vested in it, and the government made as thereby it would be, strong, energetic and efficient, that the leaving those with the states would not only be happier for them, but more beneficial for it. For whether we examine it as an abstract proposition, or avail ourselves of those lights which the history of all times hath presented to our view, yet the demonstration, at least to my mind, seems satisfactory and conclusive, that under such a government, able and willing to compel the states to perform their duty, the want of which is the great defect of the present system, and which would thereby be completely remedied that the same objects might be attained to better advantage through their intravention, than by any other mode or institution that could be adopted for the purpose. As this is perhaps the only objection which I have to the powers contained in the constitution, and is founded on principles I have already fully explained; it will be unnecessary to attempt a further illustration of it here. I shall therefore proceed, admitting the propriety of the general division into three branches, to an examination of the subordinated organization of the government, and first of the legislature.

Its division into two branches an house of representatives and senate has appeared to me to be perfectly right; and the mode prescribed for the election of the members of the former by the people not only practicable, but highly commendable. The right of originating money bills, and of impeachment, have also been properly assigned to this branch; the term of service and the principle of representation upon which its house will be formed appear likewise inexceptionable. In short this branch of the legislative is organized entirely to my wishes. I must however confess my mind has not as yet acknowledged in these respects, the same prepossessions in favour of the senate. The great defect as has been already often observed in the present form, is that of its being a diplomatic corps, a government by and for states, and not in any view of it a national one. In changing it, the object should be to correct that defect in all cases whatever, so far as it might be practicable, which can only be done by taking the appointment of all its officers out of the hands of the states, in their legislative characters, and placing it in those of the people, or electors by them appointed for the purpose. This has been done with the members of the house of representatives, but departed from with those of the Senate. This branch will therefore be in every respect the representative of the

states, dependent on and responsible to them for their conduct. In forming a right estimate of the consequences resulting from this property in the character of this body, and of the tone it may give to the measures of the government, we must examine its powers in every direction, and pursue its operation upon every subject. And first as to its share in the legislature or its influence upon all legislative acts.

The senate has an absolute negative upon all laws; from this it results that those not for the advantage of the states, or the prevailing faction in the government, to which they respectively belong will by those thus circumstanced be rejected; for is it to be presumed that because ten members from Virginia, eight from Massachusetts or Pennsylvania in the house of representatives, have passed a bill, whilst one from Rhode Island or Delaware only had rejected it, that these states will give up their equal suffrage in the senate? Is it not more presumable that their senators will look on at the nominal and unimportant superiority of those states, in the other house, laugh at their supposed triumph, and await coolly its submission to their board, where its fate will be inevitable? Or is it to be supposed, that the right to originate money bills, a thing proper in itself, being the more democratic branch, in the house of representatives, will controul this disposition, especially when we recollect that they are both only representative branches, equally dependent on the passage of such a bill for their wages or salary, and that the members of the latter holding their offices for a shorter term, have perhaps not been able to introduce such a degree of œconomy and order into their finances. This is a check of great importance in the English constitution, and indeed the preservation of the democracy, but the construction and principles of the two governments are so radically different, that it will be easily perceived by the slightest observer, the same effects are not to be expected from it, at least not to the same extent in this, that are experienced in that. Making due allowance for those considerations that should be taken into view, I am therefore led to believe that the defective principles of the present government, through the means of the senate, in respect to form and representation, have been communicated to this branch of the constitution. Appointed by the states and of course responsible to them for their conduct, the senators will act for those to which they respectively belong; nor can we reasonably expect from their concession any great accommodation. Thus the state spirit, with an equality among the members of the union, will be preserved in this branch of the government, and if there was an absolute necessity for yielding the point of representation, yet none suggests itself, at least to me,

for not remedying the defect in the form, which has been found so pernicious in the present one.

By the consent of two thirds of the senators *present*, treaties shall be formed; by that of a majority, ambassadors, other public ministers, and consuls, judges of the supreme court and other public officers not otherwise provided for by law, shall be appointed. The subjecting the decision of important questions to a dependance on the occasional presence or absence of any of the members, ~~more especially as no quorum is established,~~ appears to me improper. If the vote of two thirds of the body is in any instance necessary, for the security of the interests of any part of the union, why should the death or delinquency of a member deprive it of this safeguard, ~~by submitting them to the controul of perhaps less than one fourth?~~ It is further to be observed that whatever influence this branch may have in directing the measures of the executive, from the nature of its appointment, will be exerted to give it a narrow state bias, and that from this source alone, constructed as the two branches are, much injury is to be expected from this extraordinary coalition.

“The senate shall have the sole power to try all impeachments.” The president is to act under their controul in the cases above stated, if in any instance a wanton violation by their direction or permission should be made, which though not probable is yet practicable, of the rights or interests of any part of the community, and after solemn debate in the house of representatives, this high officer should be brought by impeachment before this body to expiate his offence, what would be his fate, especially as he still held his office and might wield his powers in his defence? A king of England involved himself in great difficulties by an attempt to establish the validity of a general pardon, but had the constitution submitted the trial of state offenders to himself, there would have been no occasion for the contest.<sup>7</sup> Admitting however the members of this body to be incapable of moral turpitude, may we not suppose, as might be the case in that of any individual state; in the operation of this government, that offences might be committed against one quarter of the community, and which before a dispassionate court would receive severe reprehension, that would be highly beneficial to the others? And in such a case could we expect from the representatives of these states a candid or impartial decision against the interests of their constituents?

The placing the executive power in the hands of one person, appears to be perfectly right. If this branch had been put into commission, the state spirit would have been communicated to it, and have tainted all its measures; in addition to this there would have been less re-

sponsibility. But the mode of election, does not in all respects appear, to merit such commendation. A departure from the strict representative line, by adding the equal vote of the senate to the number each state hath in the house of representatives, is made in the first instance; but it is still more exceptionable in other respects. If an election shall not be made, and in all probability this will often be the case, indeed the presumption is the contrary will seldom happen, a very extraordinary subsidiary mode is resorted to. Those having the five highest votes are to be ballotted for by the house of representatives, the vote to be taken by states, and one member from each giving the vote of the state. All cases that the constitution will admit of, should be considered as likely to happen some time or other. No person then I am persuaded who will make the calculation, can behold the facility by which the chair of the United States may be approached and achieved, even contrary to the wishes of the people, without equal anxiety and surprize<sup>(d)</sup>. Let it be admitted that the temper of the times and the ardent spirit of liberty which now prevails, will guard it for the present from such easy access; but that person has profited but little, from the faithful admonition which all history has given him, who shall conclude from thence, that this will always be the case. His right to remain in office after impeachment, with the influence though diminished, still attending it, appears to be highly improper. That of adjournment in case of impeachment, (disagreement) between the two branches, to such time as he shall think fit, is certainly too unqualified and extensive. The impropriety of the union of this branch with the senate has already been sufficiently dilated on; it will therefore be unnecessary to repeat the same arguments here. Contemplating however the consequences of this union, the expiration of his service, should in my opinion be accompanied with a temporary disqualification. The senators, would to save the commonwealth from injury, be able to give instruction to a new president, and it would perhaps be better, to change occasionally the acting party, of a combination that might otherwise be dangerous.

From the first clause respecting the judiciary it is obvious, that the Congress, although there shall be one Supreme Court only, may establish as many subordinate to it, as they shall think fit. The presumption is, they will establish so many as shall be necessary for the discharge of the functions of the department, to the advantage of the government, and benefit of the people. The extent therefore of the duties which become the exclusive object of a fœderal court, may give some insight into that establishment they might probably adopt; and when we observe that the cognizance of all cases arising under the

constitution and the laws, either of a civil or criminal nature, in law or equity, with those other objects which it specifies, even between the citizens of the same state, are taken from those of each state and absolutely appropriated to the courts of the United States, we are led into a view of the very important interests it comprehends, and of the extensive scale upon which it operates. It will therefore be the duty of Congress to organize this branch, by the establishment of such subordinate courts, throughout the whole confederacy, in such manner as shall be found necessary to support the authority of the government, and carry justice home, so far as it may be practicable, to the doors of all its inhabitants. What mode may be best calculated to accomplish this end, belongs to that body to determine. Bound by no rule they may it is true (as in the commencement they probably would) avail themselves of those of each state; but this would be a measure of expedience only and not of right, and may hereafter be changed as the fortunes of the government, and considerations of expedience may dictate. How far it might be proper to authorise the subjects of foreign powers to carry the citizens of any state into a fœderal court, and afterwards by appeal into the Supreme Court, is of questionable propriety. The principal argument in its favour appears to be that of securing the United States from the danger of controversies with such powers, under the partial decisions of those of the individual states. But if they knew such cases, were by a fundamental of our government submitted to them, it were reasonable to suppose, that all just cause of complaint, would be removed. The submission to a fœderal court of contests upon ordinary subjects, between citizens of the same state, or even of different states, or indeed upon any subject, that did not arise under territorial controversies between states, and which originally belonged to that court, appears to be highly improper and altogether unnecessary. The appeal as to fact is still more extraordinary and exceptionable. The verdict which has been found must of course be set aside, and the court subjected to the necessity of either trying the cause upon the evidence already given, with liberty to construe it at pleasure; of hearing it over again admitting other evidence, being judges of the fact themselves; or submitting it to another jury to find a second verdict, either of which modes appears to be highly exceptionable; for if the court become judges of fact under the old or a new trial, the right of trial by jury is dispensed with; and if a second jury shall be summoned, independent of the difficulty and hardship, attending the submission of controversies contracted at the extremities of the union, by people in some degree variant in their manners, customs, and prejudices, to a jury formed of those of any one town,

the parties are necessarily exposed to the loss of time, (of importance especially to the lower classes of society) and the enormous expence inseparable from a tryal carried on at a great distance from home. What necessity there can be, so effectually to lay aside the state courts, (which though perhaps improperly organized at present are yet capable of improvement) and subject the good people of America to such new and unheard of difficulties, I must confess I am not able to comprehend, nor can I readily foresee the very important consequences into which it may lead.

Having now taken a view as concisely as I have been able, of the defects of the present system, suggested their remedy with the principles upon which it is founded, examined the constitution by that standard, and shewn wherein I have either approved or disapproved of it; perhaps it may be expected (as a deduction from the foregoing principles) that I should make some calculation, of the probable course and ultimate fate of the government, should it be adopted in its present form, since it might have some influence upon your opinion in the present instance. This must however be altogether conjectural, for in the operation of government, as in that of all other powers after consequences, have been clearly demonstrated, as resulting from certain causes, oftentimes some incident, not contemplated, nor taken into the combination, or extra circumstance arises, that gives it a different direction. To form any estimate in this respect some peculiarities present themselves to view very deserving of attention. The mixture between the general and state governments, being partly a consolidated and partly a confederated one, suggests a balance between sovereignties that is new and interesting. So far as it proceeds from the people and its powers embrace the care of their interests, it partakes of the qualities of the former; and so far as the state governments remain of the latter. In weighing the momentum of their relative strength or force it is no less difficult to determine which will preponderate. Founded alike by the people, by the people also may either be changed at pleasure. If the precise boundary had been drawn between them, the proper checks established, and the general government well poised, (it) might for a long time, and I should hope forever, be stationary; defective in these respects it will probably soon experience a change. Pursuing a natural course under those shocks it must expect, without any foreign impression to give it the fairest hopes, let us enquire what the interests of the people will dictate, for let that be its direction. Independent state sovereignties, or partial confederacies, have been reprobated in its commencement. Its foundation has been laid on the ruin of all schemes that had that tendency, and it is presumeable it

would in no event embrace either, at least until it had experienced a great vicissitude of fortunes. If then it escaped the first paroxysms, the severe struggles, and violent efforts against it, exposed it to, its establishment might be considered as complete. And suppressing the spirit of opposition, its constitutional basis will be found broad and extensive. It is not the aid of the Delphic oracle, the blind zeal of enthusiasm, that will be called in to its support. It has the protection of the true religion, of divine authority itself, to shield it from danger. The exercise of powers in common that will be allowed of in its commencement, must yield on the part of the states, to its acquiring strength. And wielding those the constitution has given it without availing itself of such as were constructive, the state governments, under this progress, would soon become a burthen to the people. The confederated principle, or the spirit of state sovereignty, would however not be inactive, but operate so as to bring on the crisis; and the constitution itself presents a fruitful source of controversy, for the spirit of accommodation, or the mutual fear of danger, must be great, where the line between them is not exactly drawn, if they do not interfere. If this government had been organized over one state, with a moderate extent of territory, its natural progress, through the Senate, would be to aristocracy. But as it is I am inclined to believe, that although in its operation it may bear that tone, yet when it becomes convulsed and experiences a change, it will hold a different direction. Even the construction of that branch in its operation will contribute to hurry it into monarchy,<sup>8</sup> and our earnest hopes and prayers should be, every circumstance considered, that it be a limited one. For these reasons and not that I fear any danger to the liberties of our country, from the effective force of the government, exerted immediately against the good people of America, could I wish those checks and guards adopted, omitted at present from neglect and an over confidence of our security, but which it is possible if the present opportunity is lost, we may contend for hereafter in vain. Political institutions, we are taught by melancholy experience, have their commencement, maturity and decline; and why should we not in early life, take those precautions that are calculated to prolong our days, and guard against the diseases of age? Or shall we rather follow the example of the strong, active, and confident young man, who in the pride of health, regardless of the admonition of his friends, pursues the gratification of unbridled appetites, and falls a victim to his own indiscretion, even in the morn of life, and before his race had been fairly begun.

I have to apologize for the trouble I have given you in the perusal of the observations. I owe it to myself however to observe that the

bounds within which I have been under the necessity of confining this letter has prevented my going into that detail, often necessary, especially on so int(r)icate a subject for the sake of illustration; and the want of leisure has I fear, prevented even a tolerable degree of correctness. But if I have been able to explain myself to your satisfaction I shall be contented. Upon the whole it results that although I am for a change, and a radical one, of the confederation, yet I have some strong and invincible objections to that proposed to be substituted in its stead. Those of less weight might be yielded for the sake of accommodation; but until an experiment shall prove the contrary, I shall always believe that the exercise of direct taxation and excise, by one body, over the very extensive territory contained within the bounds of the United States, will terminate either in anarchy and a dissolution of the government, or a subversion of liberty. The judiciary I consider as illy organized and its powers as too extensive, the whole government in a great measure without responsibility, and the rights of men too loosely guarded. And when I behold the Senate, a corps more deplomatic in its principle, permanent in its station, and systematic in its operations, than even the late Congress itself, wielding in the one hand the strong powers of the Executive, and with the other controuling and modifying at pleasure, the movements of the legislature, I must confess that not only my hopes of the beneficial effects of the government, are greatly diminished, but that my apprehensions of some fatal catastrophe are highly awakened. We have struggled long to bring about this revolution, we have fought and bled freely to accomplish it, and in other respects braved difficulties almost without a pallel. Why then this precipitation, why this hurry upon a subject so momentous, and equally interesting to us all? Is it to be supposed that unless we immediately adopt this plan, in its fullest extent, we shall forever loose the opportunity of forming for ourselves a good government? That some wild phrensy or delirium of the brain will seize upon us, and losing all recollection of things past, and abandoning the social ties that bind mankind together, we shall fall into some strange and irritable disorder? Or is it not more natural to suppose that perfection in any science, if attainable at all, is to be approached by slow and gradual advances, and that the plan of government now presented for your inspection, though a powerful effort of the human mind, is yet to be improved by a second essay?

The subject now submitted to you, is no less interesting than it is important. Providence hath long seen nine-tenths of the habitable globe immersed, and groaning under the dreadful oppressions of slavery. To the people of America, to you it belongs to correct the opposite



extremes. To form a government that shall shield you from dangers from abroad, promote your general and local interests, protect in safety the life, liberty, and property, of the peaceful, the virtuous and the weak, against the encroachments of the disorderly and licentious. Whether they are now endangered, whether the plan now before you, presented under the most faithful and illustrious auspices; under the auspices of men of whose abilities and integrity you have long had the most satisfactory proofs, and who to the most important services, by abandoning the enjoyments of a peaceful and happy retirement, have added this further testimony, of their never failing attachments to the interests of their country, will accomplish this end, or is capable of still further improvement, belongs to you to determine. To differ in any respect from these men, is no pleasant thing to me; but being called upon an awful stage upon which I must now bear a part, I have thought it my duty to explain to you the principles on which my opinions were founded, under this further assurance, that if after a candid review, they shall appear indefensible, I will most cheerfully submit to be governed by your wishes, and obey other instructions.

(a) *Polybius*, vol. 3, page 92.

(b) *As in the restoration of Charles II. in England.*

(c) *De Lolme.*

(d) *It is obvious that seven men only may elect the President; the constitution has not been copied nor any part of it, because it is presumed to be in the memory of every person.*

1. The Articles of Confederation were approved by Congress on 15 November 1777 and finally ratified by the states on 1 March 1781.

2. For the text of the Articles of Confederation, see CDR, 86–94.

3. Monroe refers to the apportionment of the House of Representatives by population in which three-fifths of the slaves were counted. Such a formula was recommended by Congress in April 1783 in an amendment to the Articles of Confederation for the allocation of expenses among the states (CDR, 148–50). Eleven states (New Hampshire and Rhode Island excepted) ratified this amendment.

4. For a summary of a congressional report, dated 31 March 1788, on the payment of the congressional requisitions by the states, see “The State Soldier” V, 2 April, note 3 (above). For Virginia’s payment of its share of the congressional requisitions, see RCS:Va., 90n, 283n, 490n–91n.

5. Montesquieu, *Spirit of Laws*, I, Book XI, chapter VI, 221–22. John Locke did not include the judiciary when he discussed the three powers of government—legislative, executive, and federative. (The legislative power was separate from the executive and federative, which were related.) Nevertheless, he believed that judges should be “*indifferent and upright*,” and that the judiciary was crucial to the kind of system that he advocated. (See chapters IX and XII of John Locke’s *Second Treatise of Government*.)

6. See Article IX of the Articles of Confederation (CDR, 89–90).

7. Monroe probably refers to the famous case involving Thomas, Earl of Danby, the Lord High Treasurer of England. In December 1678, the House of Commons impeached

Danby for "High Treason, and other High Crimes and Misdemeanours, and Offences." To protect his principal minister, Charles II dissolved Parliament in January 1679 and pardoned him under the Great Seal. In March 1679, the House of Lords stated that the royal dissolution "doth not alter the State of the Impeachments." Two months later, the House of Commons declared the pardon "to be illegal and void." Eventually, however, the impeachment was dropped, but Danby spent the next five years imprisoned in the Tower of London. In 1701 the Act of Settlement provided "That no Pardon under the Great Seal of England be pleadable to an Impeachment by the Commons in Parliament." This provision, however, did not prevent the King from pardoning a person after conviction and sentencing.

8. At this point, Monroe thought about making an insertion, but he appears to have changed his mind because he blotted out the caret indicating where the insertion was to appear. This addition reads: "as there is no second class or order of nobles in America it [is?] difficult to say in what it will terminate. If there was such an ord[er?]."

### Cyrus Griffin to James Madison New York, 26 May<sup>1</sup>

I have the pleasure to write you by this post to make a thousand enquiries concerning your health from the marchioness<sup>2</sup> &c and to enclose you the debates of the massachusetts convention under separate covers.

contrary to expectation it so happens that we cannot bring nine states to act upon the floor of Congress, and this day one of the Maryland Gentlemen is going away which will throw us aback probably some weeks.

messrs. Jefferson and Adams have lately met at Amsterdam, and have been able to borrow for the united states another million of florins from the dutch, upon the prospect of the New Constitution being established, but Congress have not yet ratified the contract yet certainly will do it without a single objection.

They seem to think that the war in Europe will be general, but confess that no positive Judgment can be formed from such a chaos of politics as that part of the world now exhibits.

Colonel Smith<sup>3</sup> is just arrived from England, but has told us nothing of a secret or interesting nature—the Courtiers are ridiculing our situation very much, and say upon all occasions in a laughing manner that when the united states shall assume some sort of Government then England will speak out.<sup>4</sup>

Gentlemen are perpetually calling to know what will be the event of the Constitution in Virginia—do, my kind friend, at this particular crisis write to me from time to time that I may give the best information upon the subject.

accept the enclosed papers—and accept too the best wishes & regards of your affet friend and obedient Servant

1. RC, Madison Papers, DLC.

2. Griffin refers to Madame de Bréhan, mistress to the Comte de Moustier, the French minister plenipotentiary to the United States. Both had become acquainted with Madison after their arrival in New York City early in the year.

3. William Stephens Smith had been secretary of the American legation in London, where he served under his father-in-law, John Adams, the American minister plenipotentiary.

4. On the same day, Griffin wrote Thomas FitzSimons that "The british Courtiers are ridiculing our situation very much—and tell mr Adams in a sneering manner when America shall assume some kind of Government then England will speak to her" (Gratz Collection, Old Congress, PHI). See also Griffin to Madison, 19 May, quoted in Convention Debates, 7 June, note 17 (IV below).

**Richard Henry Lee to Edmund Pendleton  
Chantilly, 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 Convention. 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, manners, 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.<sup>6</sup> 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. 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>7</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 sent a copy of this letter to John Lamb who was the chairman of the Federal Republican Committee of New York. This committee was trying to organize support for amendments to the Constitution in those states that had not yet ratified the Constitution. (The copy sent to Lamb, misdated 22 May, is in the Lamb Papers, in the New-York Historical Society. Omissions in this copy are in angle brackets. For Lee's 27 June letter to Lamb, see "The Second Attempt at Cooperation between Virginia and New York Antifederalists," 18 May-27 June, above.)

2. Pendleton, a Caroline County delegate, was elected president of the state Convention.

3. On 6 February the Massachusetts Convention ratified the Constitution and recommended nine amendments. The first provides "that all powers, not expressly delegated" by the Constitution "are reserved" to the states. The third prohibits Congress from regulating congressional elections unless a state refused or neglected to do so, or if a state made "regulations subversive of the rights of the people to a free and equal representation in Congress." And the fourth prohibits Congress from laying direct taxes unless the revenue from import duties and excise taxes is insufficient and the states failed to comply with a congressional requisition (CC:508).

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

5. New Hampshire, New York, North Carolina, and Rhode Island—the four states which, along with Virginia, had not yet ratified the Constitution.

6. In December 1688 James II fled 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. For the provisions of the second and seventh amendments, see Lee to George Mason, 7 May, note 4 (above).

### **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.— 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>2</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>3</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>4</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 Offices 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 ratified the new Government (for surely it is not a Confederation) without Amendments—Massachuset has accompanied the Ratification with proposed Amendments—Rhode Island has rejected it—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. 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. 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."

2. See "George Mason and Edmund Randolph in the Constitutional Convention," 12–15 September (RCS:Va., 10–11).



3. 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 two-thirds as favored by the Southern States. In his objections, Mason attacked both aspects of the compromise (RCS:Va., 45).

4. 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 printing made by Thomas Nicolson of the *Virginia Gazette and Weekly Advertiser*. (See "George Mason: Objections to the Constitution," 7 October, RCS:Va., 40-46.)

### **James Madison to John Brown Orange, 27 May<sup>1</sup>**

I am much obliged by your favor of the 12th. instant and particularly by the documents covered by it.

Similar information to that you recite from Kentucky had reached us from the same quarter. Having not heard of the meeting for instructions being actually held, I indulge some hopes that it may not have taken place, and that the delegates will bring to the Convention no other fetters than those of prejudice.<sup>2</sup> I have endeavored to calculate with as much accuracy as possible, the comparative merit of the new & old System in relation to the Mississippi; and can not but persuade myself that if the vote of Kentucky should turn on that point, her intelligent & candid friends will embrace the Constitution. There are considerations both of a general nature, and peculiar to the Western interests, which in my opinion recommend the same policy. It gives me a great deal of pleasure, and no small hopes, to find that you view the matter in the same light that I do, and that the confidence reposed in your judgment on the question by the members from that district, will be made use of, on the side wished by the federalists. The unfortunate turn given to the Kentucky elections, has not extinguished the hopes of this part of the Community, nor the fears of their rivals. The calculations which are generally made leave rather a balance, but a very minute one, in the federal scale, after adding Kentucky to the opposite one. But the issue must be somewhat uncertain where the data are so far from being clear & precise, and the calculations so nice & tickleish.

I am anxious that the decision of Congress on the Subject of Kentucky may be speedy & conciliatory. It will co-operate persuasively with the arguments used with the delegates from that Quarter; and in my opinion is in every respect desirable. The request made on the subject of Constitution for the new State, needed no apology. Nothing would give me more pleasure than to throw in my ideas towards so important

a work, were it within the compass of practicability. But under present circumstances, I can promise nothing of that sort. I did not receive your letter till the day before yesterday; I have been occupied with company and other matters since; and shall not have a moments leisure before I set off for Richmond. at that place, I shall not probably be able to attend to any subject distinct from the one under deliberation. By the end of the Convention, if no other difficulties were in the way; the season will be past. Had I recd. your letter ten days sooner, I would at least have attempted some outlines. I shall have an opportunity in Richmd. of conversing with the members from Kentucky; and if this subject shd. be introduced, shall be very ready to suggest hints that may occur.

[P.S.] Give my complts. to Colo: Carrington to whom I sd. write, had I any thing worth saying to him. Give them also to Mrs. Elseworth & Mrs. Harman, and the rest of the family if it retains any others of my acquaintances.

1. RC, Brown Papers, Yale University.

2. For the call for such a meeting, which never occurred, see RCS:Va., 433-36.

### **New Hampshire Spy, 27 May<sup>1</sup>**

**VIRGINIAN PILLAR.** By a gentleman directly from Virginia, who arrived in town last evening, we are informed that the Federal Edifice is the reigning toast there—that the sentiments of the members of Convention for that state, are now fully known, and that there is, at least, a majority of 20 in favour of adopting the proposed Constitution. This information coming from a gentleman of veracity, whose opportunities for *true* intelligence have been very great, is handed to the publick as an unquestionable fact.

1. Reprinted: *Newport Herald*, 5 June; *Providence Gazette*, 7 June. The "gentleman" from Virginia was Tobias Lear, George Washington's secretary, who was visiting family and friends in Portsmouth.

### **The Impartial Examiner II**

#### **Virginia Independent Chronicle, 28 May**

I have in a former paper endeavored to take a view of the leading principles of the new *federal constitution*.<sup>1</sup> In pursuing the design of that address it was necessary to make some previous remarks on the nature of civil government in general: This led me to premise the material discrimination between arbitrary constitutions and the constitution of free governments.

The arbitrary species, or those, which fix no other limits to the

*supreme rulers*, but their *own wills*, are totally incompatible with the spirit of civil liberty, and exclude every idea of free government. These may be described by the harsher epithet of *despotism*.

Some men may perhaps fancy a distinction where in reality none exists. They may conceive the possibility of a government being constituted, which may with great propriety be denominated *arbitrary*; and yet consider it not as *despotic*. If, however, it be recollected that the term *despotism* is a relative expression arising from the authority of masters over their servants, which authority is founded in the *will* of the masters, it must plainly appear that every degree of *arbitrary* power is *despotic*; and that tyranny in government, whether it be distinguished by the former, or by the latter, appellation, is its regular and natural production. For whenever a power becomes vested in any *agent*, as unrestrained as the *will* of that *agent*, in him are immediately created the properties of a master; and those, over whom he exercises such power, stand *ipso facto* in the relation of servants.

To some the bare mention of *despotic rule* conveys the most alarming ideas of horror; yet at the same time are they satisfied with the gentler operations, as they imagine, of some species of *arbitrary sway*. With [— —] of zeal they urge the expediency of a *plan*, which has for its basis the extended sphere of *human will*. They contend that it is necessary to establish a system, so unrestrained in its nature, in order to effectuate a *strong* and *energetic* government. This desirable object they seem to consider as unattainable by any other means;—and that all institutions, which convey only a limited authority, are inadequate to the purposes of society.

Such a kind of responsibility, as would form a *check* on the *supreme rulers*, is deemed a source of continual impediment; and—to secure any degree of natural liberty, however small a *residuum*, is, in contemplation of their minds, laying the foundation of a *weak* government, liable to endless confusions, and productive of nothing better than sedition and anarchy. They conceive a fondness for this species of government, because it is framed in the *republican stile*; and, although fraught with the seeds of *despotism*, the apparent *loveliness* of its outward garb hides all the *deformity* of its inward corruptions. Whence it is manifest that distinctions are formed, which are preposterous and merely imaginary.

Nothing, perhaps, has contributed more towards interrupting the repose of mankind than a curious attention to the names and shadows of things, whilst the real essence and substantial parts have been disregarded.

That, which in any particular form has once produced much *evil*

and *discontent*, generally stamps a lasting impression on the mind, and is not contemplated but with extreme detestation; although evils of the same nature, when inflicted under a different appearance, are frequently submitted to without repining. Thus, after the expulsion of *Tarquin*, and with him the extinction of *regal* authority in *Rome*, the name of *King* was ever odi[o]us to the *Roman people*; yet did they acquiesce in the exercise of *arbitrary* transactions under a different form of government. Such were they frequently subjected to through the various stages of their *republic*; until at last the sovereign power was established in the person of a *single man*. This change produced a system of government, unbounded as the *regal sway*, and no less susceptible of *tyrannical* proceedings. They could then respect the name of *emperor*, unlimited as he was, and, though exposed to all the rage of oppression, bow down with reverence, and venerate the *imperial scepter*.

The insidious attempts under a British administration to pervert the former government into a baneful system of tyranny had spread a general alarm throughout America. Opposition to *arbitrary* measures manifested itself among all ranks of people. Diligent enquiries were made to [expose<sup>2</sup>] the schemes of their enemies; jealousies excited to an unusual degree with respect to their rights and privileges;—whilst exertions were made, which produced the most desirable effects. All these circumstances conspired in exhibiting very favorable prospects, and promised a lasting security to American liberty.

The injuries suffered under a government, which exposed the people of these states to the machinations of wicked and designing ministers, determined them in the choice of a system, which had principally in view the preservation of their *liberty*. Such was its grand object. In pursuit of this plan, as the great means of national happiness, constitutions were formed for the different states upon principles, salutary in their nature, and tending to perpetuate the freedom and independency of each. To these was added a confederation, under which the separate *republics* so constituted might harmonize in all their *general interests*.

Thus were they situated—when a defect was apprehended in this confederation. The ineffectual endeavors to promote some important advantages, and to answer all the exigenc[i]es of the *union*, indicated a weakness in the general government. A revision was deemed expedient. When, therefore, a new constitution was proposed, it became the duty of every American diligently to enquire, *first*, whether this system was coincident with their *standing maxims of liberty*; and, if so—whether conducive to *good policy*. If found derogatory to the former—

any consideration respecting the latter should be unnecessary. This alone should mark it, as dangerous, and unworthy of approbation. The genius of America [---] [---] [---] [---] that *no fancied schemes of policy should compensate for the adoption of a plan discordant to her favorite principles of liberty*. This is not a chimerical illusion, but a solid and interesting consideration. A mind thus convicted must act inconsistent with propriety, and contrary to every sentiment of duty, if it would then approve of the plan.

The writer of this address had, therefore, in his first number chiefly intended to take up this matter only so far as related to its principles—and having conceived that these were incompatible with the admired *maxims of American liberty*, his objections on that head were there laid down.

Observing, however, that most of the writers in favor of the plan seem in a great measure to have passed over this *important point*—and recommend it merely from *motives of policy*; it is now intended, as the business of some succeeding papers,<sup>2</sup> to state objections to such of the constituent parts of the plan, abstracted of its principles, as appear, in his opinion, improperly constructed, and calculated to produce ill effects in their operation. These writers seem not to regard any fundamentals in government, provided they can procure a plan, in which they fancy some prospects of immediate benefit are to be discovered. In conformity with the stile of the *proposed constitution*, the favorers of it have, with a peculiarity of self-applause, ascribed to themselves the distinction of *fœderalists*; while those, who oppose the plan are marked with the epithet of *anti-fœderal*.

The strong desire, which has been manifested, for a union between the American states, since the revolution, affords an opportunity of making the distinction, as they imagine, to their advantage.—As *fœderalists*, in their opinion, they must be deemed friendly to the *union*:—as *anti-fœderal*, the opposers must, in their opinion too, be considered unfriendly. Thus on the sound of names they build their fame.

For those gentlemen, however, let it be observed that the opponents seem to act on the broader scale of true *fœderal principles*. The advocates for the new code wish all sovereignty to be lodged in the hands of Congress. This is not to connect thirteen independent states—but to form one extended empire by compounding the whole, and thus destroying the sovereignty of each. The other party desire a continuance of each distinct sovereignty—and are anxious for such a degree of energy in the general government, as will cement the union in the

strongest manner. This they consider as one of the greatest blessings, which can attend their country.

1. The first number of "The Impartial Examiner" was printed in three parts on 20 and 27 February and 5 March (RCS:Va., 387-94, 420-24, 459-66).

2. See "The Impartial Examiner" III, IV, and V, 4, 11, 18 June (V below).

**An American  
Pennsylvania Gazette, 28 May<sup>1</sup>**

*To the Honorable the MEMBERS of the CONVENTION of VIRGINIA.*

The length of the address I had lately the honor to make to you, rendered it inconvenient at that time to bring before you some further considerations, which appear of some importance. The situation of your Eastern Shore counties is a matter that should be seriously considered, before you determine to reject the proposed constitution. Should Virginia decline the new confederacy, the good people of Acomack and Northampton will find themselves separated from the rest of the state by a great bay, larger than the entrance of the mediterranean, which divides Africa from Europe, while the adjoining state of Maryland is distinguished from them by a mere imaginary line. The Eastern Shore of Virginia must be at this time exceedingly connected with the lower counties of Maryland by blood and marriage, and by a variety of business. They would be particularly exposed to the fleets of the union and of foreigners, were they not to join the new confederacy; for their situation is almost insular, the length of their boundary line dividing them from Maryland being but fourteen miles. Whether they would remain with Virginia under these circumstances, or unite with Maryland and the union, seems a question deserving your serious reflexions. In considering this point you will recollect, that every member of the Maryland convention for the Eastern Shore, and all the members of the Delaware convention, representing the body of the Peninsula, were decidedly in favor of the constitution. You will also remember the inducements those counties would have in the market for their produce, which, in the event of their being out of the new union, will be burdened with the impost that will certainly be laid upon all foreign articles imported. Similar considerations may influence other parts of your state to secede from Virginia, and cling to the union.

If there are any of the citizens of your state who expect to see manufactures established in Virginia, it will appear of great consequence to them that you should be a part of the new confederacy; for if your workmen cannot vend their commodities in the other states

without meeting the foreign impost, which will fall on all articles not of the growth or manufacture of the union, it will operate exceedingly to discourage them. Two circumstances within your command promise more success in manufactures, than might at first view appear to be the case—your coal, which is yet peculiar to Virginia on the sea coast, an article highly important to a great number of manufactures; and cotton, which must be the great American raw material for *piece goods*. The shores of James and Apomatox rivers seem most particularly interested in these considerations, tho' they are of real and great importance to the state at large.

The expected trade of Virginia with that fertile country between Potowmack and the lakes, together with your Indian trade through the waters of the Ohio, would be lost, if your honorable house should finally reject the constitution. The waters of the Monongahela are indispensably necessary to secure these advantages to you, but you will remember the imposition of a toll and duty on every thing passing thro' that channel to and from Virginia, would turn the trade into another course. The new union would find its own interest in promoting the northern communications by the Susquehanna and the Mohawk's river, which flow thro' New-York, Pennsylvania and Maryland.

Should you attempt to form a small confederacy, you would be constrained to give up considerable points (some of them perhaps very injurious to you) to secure the accession of the few states who might consent to come into it. North-Carolina, for instance, should that state decline the proposed government, might insist on her paper money being introduced into the business of both states. Many other inconveniences of a like nature would certainly present themselves.

The treaties subsisting at this time between the United States and foreign nations cannot continue in force with Virginia, if separated from the union. We may doubt whether they would be renewed with her, as the inducements she could hold out alone would probably be insufficient, and it is reasonable to suppose a connexion with any state that should withdraw herself from the union would be declined, at least for a time, by all foreign powers who might desire a connexion with the new confederacy.

The shock to public and private credit both at home and abroad, that will be consequent on the rejection of the proposed government, will be most violent and dreadful. Every scheme of prudence and enterprize among our own citizens, every plan of adventure and establishment here, many of which are doubtless now in contemplation by foreigners, will be checked and subverted. But should nine or ten states

adopt the constitution, how miserable will be the condition of public and private credit in those states who decline it. Will any American or foreign merchant trust his property within their boundaries—will any foreign nation have the smallest confidence in an useless limb dissevered from the body. America, in the deplorable event of the rejection of the fœderal constitution, will be like an hopeless victim whom justice has subjected to the rack. She will resemble one of those pitiable objects in the disjointed condition of her members. In one respect indeed her situation will be more dreadful. The *coup de grace* terminates all his agonies, while our distracted country will be doomed to drag on her miserable existence for a length of time to which no human mind can fix a period.

In such a situation of affairs, instead of expecting new schemes of emolument and advantage, we must foresee the certain loss of many old ones—Instead of frequent and numerous emigrations, and an influx of imported wealth, we may be too certain of depopulation, and the exportation of property. Instead of the delightful and beneficial cultivation of the arts of peace, we must once more experience the miseries of civil discord—not to secure, but to destroy our peace—liberty and safety.

It has been said by some, that the United States are much too extensive to continue under one government. But the youngest people now on the theatre of life remember this very country, joined by the Floridas on the south, and by Nova-Scotia, New-Brunswick and Canada on the north, existing under one government. To all these were added the West India islands, New-Foundland, the British territories in the East Indies, and the kingdoms of Great-Britain and Ireland. It will be soon enough to consider whether we ought to separate, when a disposition of that kind is discovered in some of the states. Hitherto no such disposition has appeared. The general convention, who were a respectable representation of our country, certainly did not think the idea either proper or conducive to our happiness, or they would have framed their act accordingly. Congress have never recommended a separation to our consideration, nor has the legislature of any state advised or desired it. However pleasing it may be to individuals, there is no proof of its being the wish of a single county in the union. A little reflexion will shew it to be as inconsistent with our happiness and interest, as it is opposite to the wishes and feelings of the people. Were we united by the fœderal government, there would be no enemy at hand to disturb our perfect tranquility. The Spaniards on the south, we may assume, have infinitely more reason to be apprehensive of our movements, than we of theirs. The British provinces on the north are



more likely, in the event of a war, to furnish opportunity against us. But they cannot be very injurious, and indeed they may rather serve the useful purpose of keeping us on our guard. We have nothing to fear from either of those quarters, provided we are united. In this respect the United States under the new constitution will possess all the advantages in America, which Henry IV. hoped to produce by universal monarchy in Europe, with this great difference in our favor, that the road to ours is through well conducted and free councils, independently held by the states concerned, and his scheme, however useful and noble the design, would unnecessarily have been effected by force and bloodshed.

Without advancing the arrogant idea that the proposed plan of fœderal government is perfectly unexceptionable, the proper question on this great occasion seems to be, whether the happiness of America will not be more effectually promoted by adopting it, with the power and right to introduce amendments provided in it, than by rejecting it under the present circumstances of our country.

Some may ask, why not previously amend?—I respectfully answer. First, because our circumstances do not admit of delay without the loss or postponement of many great advantages, and without many serious dangers and injuries at home and abroad. Secondly, because it is not to be expected that any future convention will possess, in a more eminent degree than the last, the necessary regard for the general interests of America, and the indispensable spirit of amity and concession displayed by them.<sup>2</sup> Thirdly, because the gentlemen who disapprove of the government acknowledge a variety of views, opinions, principles and feelings, as opposite and contradictory to each other, as they are to the proposed constitution. Fourthly, because seven of the states (and probably eight by this time)<sup>3</sup> have adopted the government, some of which are extensive and some contracted, some in the north, some in the south, and some in the centre, some the most numerous in free citizens, and some the least so, some with unchecked democratic state constitutions, and some with the reverse, some poor with a paper lawful money, and some rich with no lawful money but solid coin, some purely agricultural, and some manufacturing and commercial. Fifthly, because the adoption of the constitution by eight states (if it shall so appear) containing about two thirds of the free white inhabitants of the United States,<sup>4</sup> is a strong proof that the convention have not mistaken the feelings, opinions and interests of the people at large: (and lastly, because it will appear, on due examination of the constitution, more easy to amend it after than before the adoption. Permit me, for a few moments, to ask your cool and close attention

to this point. To amend before the adoption, will require that all the states, who are to become members of the new confederacy, should adopt all the amendments that shall be adopted by any one. For example, if five amendments should be proposed by a new general convention, and adopted by one state, every other state that should no[t] adopt them all, would effectually reject the constitution. That is, the consent of the whole thirteen will be necessary to obtain any one amendment, however salutary. But to amend the constitution after its adoption, will require the conventions or legislatures of only three fourths of the states: that is, ten out of the whole thirteen. Hence, it clearly follows, that the difficulty of obtaining amendments after the ratification, will be as much less, than to procure them before the ratification, as ten is less than thirteen.

It has been urged that the officers of the federal government will not part with power, after they have got it; but those who make this remark, really have not duly considered the constitution: for congress will be obliged to call a federal convention on the application of the legislatures of two thirds of the states: and all amendments, proposed by such federal convention, are to be valid, when adopted by the legislatures or conventions of three fourths of the states. It therefore clearly appears 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 federal 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.<sup>5</sup>

The government now offered to the free citizens of America is truly a government of the people, for *no man* can be excluded from giving his voice, or from holding the offices which are necessary to execute it. Is it requisite to qualify a man to elect or be elected, that he be *rich*? No, for there is no qualification of property, tho' it was demanded by some who now oppose the constitution.—Is it necessary to be of noble blood or of a powerful family? No, for it is declared that there shall be no titles, rank or nobility.—Is there a power given to a king or a prince, to alter and amend the constitution? No, for it is vested, where I trust it will ever remain, in **THE PEOPLE THEMSELVES**.

1. This item was reprinted in the *Massachusetts Gazette*, 6 June; the Annapolis *Maryland Gazette*, 12 June; and the June issue of the *Philadelphia American Museum*, where Tench Coxe was identified as the author. A significant addition made by Coxe in the republication of the essay in the *Museum* is included here in angle brackets (see note 5, below). On 21 May the *Pennsylvania Gazette* had printed another address by "An American" to the members of the Virginia Convention (above).

2. This is a paraphrase of part of George Washington's 17 September letter, forwarding the Constitution to the President of Congress. Washington, the President of the Constitutional Convention, said: "... and thus the Constitution, which we now present, is the result of a spirit of amity, and of that mutual deference and concession which the peculiarity of our political situation rendered indispensable" (CDR, 305; and CC:76).

3. On 23 May, South Carolina became the eighth state to ratify the Constitution. The news of its action reached Philadelphia on 3 June.

4. Using the population statistics available to the Constitutional Convention, the free white population of the eight ratifying states amounted to 64.5 percent of the total free white population of the United States (CDR, 300).

5. The text in angle brackets was added in the reprinting in the June issue of the *American Museum*.

**William Short to William Nelson, Jr.**  
**Paris, 30 May (excerpt)<sup>1</sup>**

... The good Paradise,<sup>2</sup> (for he certainly seems to me from an acquaintance of four days to be one of the best creatures on earth) has been able to answer all my questions respecting the federal & anti-federal dispositions of my friends & acquaintances in Virginia—he tells me you are strongly in the latter class & for that reason did not chuse to be a member of the convention.—I confess that as long as I confined myself to an examination of the merits of the new constitution abstracted from other considerations, that I was antifederal also, if an aversion to that constitution is properly antifederalism<sup>3</sup>—I confess also that I like much better the idea of *confederated states* than *consolidated states*.—but at present my dear sir the question is of a different kind & put [on a?] new ground—it is whether will America be in a worse condition by refusing or adopting the present constitution—& I think under that point of view we must determine in favor of it—if we accept there is always hope of amendment—if we refuse we have no prospect before us but a dissolution of the union & all its attendant evils; which are great viewed from any place, but augment tenfold when viewed from this side of Atlantic—from here we see what steps foreign powers wd. take with us under that situation.—

We are waiting here with anxious expectation to know learn the result in Maryland, So Carolina & Virginia—After mustering up the forces on both sides in Virginia, it appears as dubious a point as was ever agitated before an assembly—It is P Henry & his zealous exertions which alarm us all here—We hope they will follow the wise & prudent conduct of Massachusetts—the moderation of the minority there was truly exemplary—when principles such as they avowed after having lost the question come to be well disseminated in a country, republican government is clothed with the charm of quiet & tranquillity & tumults

so long opposed to that form by its enemies, exist no more—peace abroad & tranquillity at home become its attributes. . . .

1. FC, Short Papers, DLC. Nelson had written Short a lengthy letter on 9 and 13 March (RCS:Va., 475–78).

2. For John Paradise, see James Madison to Thomas Jefferson, 22 April, note 2 (above).

3. For Short's "aversion" to the Constitution, see his 31 January letter to William Grayson (RCS:Va., 342–43)

### **William Short to Thomas Lee Shippen Paris, 31 May (excerpts)<sup>1</sup>**

. . . Since your departure we have had no news of any steps taken towards the acceptance of the constitution—we as yet only know of six states—by the last packet we have gained no additional information except as to the dispositions of So. Carolina, Maryland & Virginia—in the two former it must be now decided—in the latter it is beginning to be in deliberation. It is said there will be no opposition in So. Carolina—in Maryland there is a very great majority in some districts against the constitution, but much the greater number of districts seem to be for it—so that on the whole there is little doubt of its being accepted by that State, so far as we may judge from newspapers & the public opinion at the time of the sailing of the Packet.—In Virginia it will be one of the most nicely divided questions that ever came on—in that State there are three parties, federalists, tho[s]e who desire the constitution but with amendments, antifederalists. It is the middle body wch. will probably decide the question, & they will probably be determined by the wise & prudent example of Massachusetts, to confirm the constitution & recommend the amendments, instead of making the amendments a condition of their acceptance.—This middle body is headed by Mason & E. Randolph both members of the Convention—the Antifederalists will be headed & lead by P. Henry, in that party the only speaker I know of except himself is J. Taylor, a lawyer whom you perhaps know.—I speak [here?] of only those whom I know to be members of the convention—I have not a complete return of elections & of course know not if R.H. Lee, is a member, though suppose it certain—in that case you know what powerful aid he will give by his talents & eloquence—The federalists, ie those who will lead are Messrs Wythe, Pendleton, Madison, Innes.—they will be speakers—Mr. Blair of Wmsburg, Monroe, Marshall, G. Nicholas are members also & strongly federal—here is a great weight of abilities, of talents & virtue, my dear sir, but the powers of Henry in a large assembly are incalculable—of those who have influence & who are not members of the

convention are on one side G. Washington—on the other—all the Nelsons, F.L. Lee, Arthur Lee, I believe the late Gov. Harrison—Mr. John Page of Rosewell tried to be elected for his county, but could not—he is federal—his son Mann, who is practising the law, antifederal (he is about to marry G. Nelsons eldest daughter)—W. Nelson, my friend, is strongly antifederal & did not chuse to be of the convention for that reason, it is said that reason wd. have prevented his being elected—(it is true that he is to marry Miss Byrd)—N. Burwell of the Grove, & Andrews are members for James City.—both federal—Ralph Wormeley & F. Corbin, are members & both federal—the latter par parenthese, is a speaker,—Did you ever my dear sir, recieve such a farrago of politics & private history—I receive it from Mr. Paradise,<sup>2</sup> & thought you might be glad to hear it though not related in regular method—your analytic head will arrange it as it ought to be. . . .

Have you ever read some pieces signed Cincinnatus & adressed to Wilson of Philadelphia?—They had escaped my particular notice in the number of things I saw & [— —] [— —] written on the subject of the Constitution—on learning from Mr. Paradise that A. Lee was the author I have read them over more attentively—they are the most powerful arguments against the new constitution that I have seen.—although not always conclusive they are always powerful—They prove a great deal against the constitution, but they prove nothing against the acceptance of it (in my mind) in the manner that Massachusetts has done<sup>3</sup>—Cutting wd. perhaps be surprized to hear this sentiment from me<sup>4</sup>—but I think the question before the convention at present is not whether the constitution is the best that could have been proposed?—but whether under the present circumstances of America it is for her advantage to accept the constitution proposed? . . .

1. RC, Shippen Family Papers, DLC. This letter was addressed to Shippen at The Hague in the care of C. W. F. Dumas, America's commercial agent in that city. Dumas endorsed the letter as "Received from the post office, and forwarded under Cover of Mr. Rutledge, at the Hague July 1st." Shippen, who had recently studied law at one of the English Inns of Court, was on a "grand tour" of Europe.

2. John Paradise and his wife Lucy had arrived in Paris on 25 May.

3. In six essays printed in the *New York Journal* from 1 November to 6 December (CC:222), "Cincinnatus" answered James Wilson's 6 October speech before a Philadelphia public meeting (CC:134).

4. John Brown Cutting was in London in May and June 1788. For the correspondence between Cutting and Short on the Constitution, see CC:Vol. 2, pp. 461–62, 465–67, 475–80, 492–98.

## IV. THE VIRGINIA CONVENTION 2-27 June 1788

### Introduction

The Virginia Convention was called to meet at the State House in the city of Richmond on Monday, 2 June 1788. To accommodate the people planning to attend the debates, the schedules of stagecoaches were altered so that they would arrive in Richmond on Sunday, rather than the usual Monday. If needed, extra stagecoaches were also available from Williamsburg and Fredericksburg (*Virginia Gazette and Weekly Advertiser*, 22 May).

On 2 June, a majority of the 170 Convention delegates assembled in the chamber of the House of Delegates, unanimously elected Edmund Pendleton president, and appointed John Beckley secretary, the Reverend Abner Waugh chaplain, and Augustine Davis printer. The Convention appointed a committee to examine the election returns; and it ordered printed, for its members, 200 copies of both the Constitution and the 25-31 October 1787 legislative resolutions calling the Convention. To handle the overflow crowd, the Convention adjourned to meet at 11:00 the next morning in the New Academy, "a Spacious and Airy Building sufficiently large to accommodate all the Members—and all those who desire to be spectators" (Alexander White to Jean [Mrs. James] Wood, 10-11 June, V below).

Except for Sundays, the Convention met daily from 2 to 27 June, a total of twenty-three days. After the first four days, the sessions began at 10:00 A.M.; midway through the Convention, they commenced at 9:00 A.M. The Convention usually adjourned at 4:00 P.M., although on 13 June it adjourned between 1:00 and 2:00 P.M., "on Acct. of a very Heavy storm of Hail, wind & rain, which blew open the Windows, & renderd the House too wet & uncomfortable to proceed" (William Heth Diary, 13 June, V below). When the special session of the General Assembly met concurrently with the Convention, from 23 to 27 June, the Convention delegates—sixty-two of whom were members of the legislature—gathered at 9:00 A.M. on the 23rd, at 10:00 A.M. on the 24th, 25th, and 27th, and at noon on the 26th, while the Assembly began its meetings at 8:00, 9:00, or 10:00 A.M.

On 3 June, the Convention adopted rules and read the congressional resolution of 28 September 1787 calling for state conventions; the Constitution, resolutions of the Constitutional Convention, and the

letter of the President of the Convention; the legislative resolutions of 25–31 October; and the legislative act of 12 December providing payment for the delegates. The Convention resolved that no question would be taken on the whole or any part of the Constitution until the entire document was read and discussed clause-by-clause. Between 4 and 25 June, the delegates debated the Constitution in the Committee of the Whole, which was chaired by George Wythe from 4 to 21 June, Benjamin Harrison on 23 June, and Thomas Mathews on 24 and 25 June.

Despite the resolution to examine the Constitution clause-by-clause, the delegates, following Patrick Henry's lead, debated the Constitution in general, wide-ranging speeches that often lasted between one and three hours. On 12 and 13 June, the delegates digressed to debate the sectional implications of the Jay-Gardoqui treaty negotiations over the free navigation of the Mississippi River. On 14 June, the delegates agreed to resume their clause-by-clause discussion of the Constitution. Throughout the Convention, Antifederalists relied heavily on Henry who received strong support from George Mason, James Monroe, and William Grayson. Federalists depended upon Edmund Randolph, James Madison, and George Nicholas, with assistance from Edmund Pendleton, Francis Corbin, John Marshall, and Henry Lee of Westmoreland County.

Early in the Convention, the debate focused on whether the Constitution should be ratified conditionally or unconditionally. Federalists argued that the Constitution should be ratified first and that amendments, if needed, should be proposed by the new Congress under the Constitution. Antifederalists wanted the Convention to adopt substantial amendments, which would be sent to the other states for their consideration before the ratification of the Constitution.

During the course of the Convention, no one could be certain whether or not the Constitution would be ratified. In particular, speculation centered on the delegates from the seven Kentucky counties, who eventually voted ten to three against the Constitution (one delegate being absent). When the delegates first met, Antifederalist William Grayson thought that the sides were "as nearly equal as possible" (to Nathan Dane, 4 June, V below), but most Federalists believed that they had a majority. During the course of the Convention, some Federalists predicted a sizable majority, with Francis Corbin estimating that it would be as high as twenty or thirty votes (to Benjamin Rush, 23 June, V below). James Madison, however, was more cautious. On 18 June, he reported that, whichever side predominated, the majority would not be more than six. On the 20th and 22nd, Madison estimated

that Federalists had a majority of three or four; on the latter day he also noted that the majority had possibly grown to five or six. But on 24 June Madison wrote: "I do not know that either party despairs absolutely." Nevertheless, he continued, "The friends of the Government seem to be in the best Spirits; and I hope have the best reason to be so." (See V below for the letters that Madison wrote between 18 and 24 June.)

On 24 June, 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 Congress which should first assemble under the Constitution, to be acted upon according to the mode prescribed therein." Whereupon, he presented two resolutions to this effect. The resolutions were preceded by a preamble that interpreted the Constitution to provide that all rights not granted to the government were retained by the people and to guarantee freedom of religion and the freedom of the press, "among other essential rights." Patrick Henry responded "that the proposal of ratification was premature"; but, after some lengthy remarks, he proposed a resolution "to refer a declaration of rights, with certain amendments to the most exceptional parts of the Constitution, to the other States in the Confederacy, for their consideration, previous to its ratification." The clerk read the resolution, the declaration of rights, and the amendments, which, according to stenographer David Robertson, "were nearly the same as those ultimately proposed by the Convention."

On 25 June, George Nicholas called for Wythe's proposal to be read in the Committee of the Whole "in order that the question might be put upon it." After Wythe's proposal was read, John Tyler "moved to read the amendments and bill of rights proposed by Mr. *Henry*, for the same purpose." After some debate, President Edmund Pendleton resumed the chair, and Thomas Mathews reported that the Committee of the Whole had finished its consideration of the Constitution and had resolved that the Constitution be ratified. The Committee of the Whole also had resolved 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. As a substitute to the first resolution, Antifederalists proposed that a bill of rights and other amendments should 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. Whereupon, the delegates voted 89 to 79 to ratify the Constitution. Two delegates (Notley Conn of Bourbon County and Thomas Pierce of Isle of Wight



County) were absent when the votes were taken. The difference in the votes was caused by David Patteson of Chesterfield County, who voted with Antifederalists on amendments but who sided with Federalists on ratification.

On the same day, a committee composed of five Federalists—Edmund Randolph, George Nicholas, James Madison, John Marshall, and Francis Corbin—prepared a form of ratification, which was read, accepted, and ordered to be engrossed. A committee of eleven Federalists and nine Antifederalists, chaired by Federalist George Wythe, was appointed to prepare recommendatory amendments.

On 26 June, the engrossed Form of Ratification was read. It was signed by President Edmund Pendleton, who was ordered to transmit it to Congress. After providing for the payment of its officers, the Convention adjourned to 10:00 the next morning.

On 27 June, a second copy of the Form of Ratification was read, signed by Pendleton, and ordered deposited by the secretary of the Convention in the “archives of the General Assembly.” George Wythe presented the report on amendments which consisted of a declaration of rights containing 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, representatives and senators were “to conform to the spirit of these amendments as far as the said Constitution will admit.” The delegates adopted both sets of amendments and the concluding statement.

The Convention ordered the amendments engrossed, signed by the president, and sent to Congress, along with the Form of Ratification. It also ordered that each state executive or legislature be sent an engrossed copy of the Form of Ratification and the amendments signed by the president and attested by the secretary. The secretary was instructed to have the journal “fairly entered in a well bound book” and deposited in the “archives of the Privy Council or Council of State.” The printer to the Convention was told to print fifty copies of the Form of Ratification and the proposed amendments for each county. After thanking Edmund Pendleton for the “able, upright, and impartial discharge” of his duties as president and receiving “his acknowledgment,” the Convention adjourned *sine die*.

## Sources for the Virginia Convention

The sources for the Virginia Convention are, at once, meager and voluminous. The published journal provides a brief sketch of events; while the published debates exceed 600 pages. Extant newspaper reports add little to the published debates, and notes of debates taken by Convention delegates or observers are few. Financial records, however, are substantial.

Two hundred copies of the *Journal of the Convention of Virginia . . .* (Evans 21555) were printed by Augustine Davis, the printer to the Convention and the publisher of the *Virginia Independent Chronicle*. The proceedings recorded in the forty-two-page *Journal* include: (1) the election of officers, (2) reports of the Committee of Privileges and Elections on contested elections, (3) statements that the delegates met in Committee of the Whole, (4) the appointment of committees, (5) two roll-call votes on 25 June, (6) the Form of Ratification, (7) the committee report on proposed amendments to the Constitution, and (8) provisions for the payment of Convention officers. Reports of Convention proceedings appeared in the *Virginia Independent Chronicle* and were reprinted in other Virginia newspapers. Because virtually all of the information in the *Journal* and newspaper reports is in the *Debates*, these sources are not printed below, but have been placed on Mfm:Va. (The copy of the *Journal* on microfiche was annotated by James Madison and is in the Andrew Jackson Donelson Papers in the Library of Congress.) Discrepancies between the published debates and the *Journal* are indicated in footnotes to the debates (below). A manuscript copy of the *Journal* is in the Archives Division of the Virginia State Library, but it seems not to be the manuscript journal of proceedings that the Convention ordered to be "fairly entered in a well bound book," "signed by the President," "attested by the Secretary," and deposited "in the archives of the Privy Council or Council of State." This copy bears neither signature nor attestation. In the main, this manuscript journal differs from the printed *Journal* in capitalization, punctuation, and the use of italics. Significant differences between the two journals are indicated in footnotes to the debates (below).

The financial records of the Convention consist of the attendance book and two auditor's journals, all located in the Archives Division of the Virginia State Library. In the attendance book, both delegates from each county are listed on a sheet of paper, with notations indicating the number of days in Richmond, mileage and ferriage, and total compensation. A photographic reproduction of this book is in Mfm:Va. The auditor's journals contain records of the payment of

Convention delegates and miscellaneous expenses. A compilation of these financial records is in VI below.

Other extant Convention papers include: petitions protesting election results, manuscript copies and outlines of a few speeches, lists of proposed amendments to the Constitution, and forms of ratification, all of which are printed below. Newspaper and private commentaries on the Constitution and the Convention, including letters of Convention delegates and observers, are published in V below.

The principal source for the Convention is the printed debates based on the shorthand notes of David Robertson, a prominent Petersburg lawyer. Robertson had emigrated from Scotland to serve as a tutor. He was fluent in several languages and well read in the classics. After the Virginia Convention, he was employed by North Carolina Federalists to take shorthand notes of the debates in their state Convention (21 July to 4 August 1788), which were published in a 280-page volume in June 1789. And in 1808 his stenographic notes of the 1807 treason trial of Aaron Burr were printed in two volumes.

The debates of the Virginia Convention were published by Miles Hunter and William Prentis of the Petersburg *Virginia Gazette* in three volumes (totaling more than 600 pages) under the title *Debates and Other Proceedings of the Convention of Virginia*. . . . Volume I appeared in 1788 (Evans 21551) and Volumes II–III in 1789 (Evans 22225). (Since Hunter died in December 1788, only Prentis' name appears on the title pages of Volumes II and III.) The first volume, containing 194 pages, covers 2–9 June; while the second and third volumes, consisting of 195 and 228 pages, cover 10–14 June and 16–27 June. Preceding the first day's proceedings, the first volume includes a copy of the Constitution, the resolutions of the Constitutional Convention, and the letter of the President of the Convention to the President of Congress. Subheadings added to the text of the Constitution describe the contents of various articles or sections (for example, "Senate," "Powers of Congress," "Restrictions upon Congress," and "Restrictions upon Respective States").

On 2 June Federalist George Nicholas introduced a motion in the Convention to allow shorthand reporters "to take down the business of the house." George Mason and Patrick Henry objected to the motion, arguing that reporters were not members of the Convention, that the debates might be incorrectly published, and that such reporting had traditionally been ruled a breach of privilege by the British House of Commons. Because of such opposition, Nicholas withdrew his motion. (See Newspaper Report of Debates, 2 June, below.) Mason described the reaction to the motion thusly: "He [David Robertson] had

the Audacity to desire the Sanction of Convention Authority for his work, even before he began it, and got a Member to make a Motion for that Purpose, on the first Day of the Convention; but upon the Impropriety & Absurdity of it being properly exposed, by Mr. Henry & myself, the Member who made the Motion (George Nicholas) was ashamed of it, & withdrew it; so that they come out with no other Sanction, than the Credit of the Publisher" (to John Mason, 18 December 1788, Rutland, *Mason*, III, 1137). The Convention, however, permitted Robertson to take a seat in the gallery and to take shorthand notes.

Starting on 11 June, the *Virginia Independent Chronicle* printed an advertisement proposing a subscription edition of the Convention debates. Similar advertisements appeared in other Virginia newspapers: the *Norfolk and Portsmouth Journal* beginning on 18 June; the *Virginia Herald* beginning on 19 June; and the Winchester *Virginia Gazette* beginning on 25 June. (A report of the advertisement was printed in the New York *Daily Advertiser* on 1 July.) The advertisement promised that the debates would be "printed on good paper and [in] a legible Type." The price to non-subscribers would be one dollar (six shillings) for every 200 pages, with a twenty-five percent discount (or 4s 6d) for subscribers. Subscriptions would be received at the printing offices in Alexandria, Fredericksburg, Petersburg, Norfolk, at the shop of Augustine Davis in Richmond, and at the office of Matthias Bartgis in Winchester. After 500 subscriptions were received, work would begin on the edition. Lastly, the advertisement assured the public "that the persons who have undertaken this business are determined to act with the most perfect integrity and impartiality" (Mfm:Va.).

On 15 October 1788, the Winchester *Virginia Centinel* announced that "Those Gentlemen who wish to be furnished with the DEBATES of the CONVENTION of this State, are requested to transmit their names to the Printers hereof. The above work is now published in Richmond, and ready for delivery." Exactly one week later, the *Virginia Independent Chronicle* noted that the first volume of debates was "*Just Published*, And will be ready to be delivered on Friday next," 24 October. On 29 October the *Chronicle* announced that the first volume was published and that any subscriber who had paid the full price of six shillings would receive either a refund of one shilling and six pence or that amount would be credited against the cost of the second volume. Both of the *Chronicle's* announcements also stated that "the Second Volume is in the Press, and will be published with all possible expedition." A copy of Volume II (perhaps an advance copy) was probably brought to New York City by William Grayson when he arrived to take

his seat in the U.S. Senate on 21 May 1789. (See Convention Debates, 11 June, note 31, below.) Not until 1 July 1789, however, did the *Chronicle* announce that the second volume was available at the office, and that the third volume would soon be published. No advertisement has been found announcing the publication of Volume III.

Subscriptions to and sales of the *Debates* appear to have been substantial. A page torn from a Richmond ledger book, perhaps the subscription list for the first volume kept by Augustine Davis and bearing the dates 18 to 25 June 1788, lists the names of prominent Virginians, some of them Convention delegates. On 18 June eighteen men signed the ledger, among them James Monroe, Henry Lee of Westmoreland County, and Alexander White. On the 19th Green Clay, Theodorick Bland, Robert Breckinridge, and four others signed; on the 20th Benjamin Harrison and three others; and on the 25th William Lowther, Hezekiah Davison, and four others (*The Collector*, LXXVI, Nos. 7–10 [1963], page 2, item b141). William Wiatt, the postmaster of Fredericksburg, advertised in the *Virginia Herald* on 18 and 25 December that he had “a few Copies of the First Volume of the *Debates* . . . for SALE.” In 1805, David Robertson said that “The substance of those debates was so interesting, that the work met with general approbation; and a much greater number of volumes might have been easily sold, than were published” (*Debates*, 1805 ed., vii–viii).

Questions about the accuracy of Robertson’s *Debates* arose even before the first volume appeared. On 21 July 1788 Convention delegate George Mason wrote his son John: “The Debates are not Yet published; nor is there any Cause to expect that they will be authentic; the Short-Hand Man, who took them down, being a *federal* Partizan, they will probably be garbled, in some such Partial Manner as the Debates of the Pennsylvania Convention have been by Lloyd” (Rutland, *Mason*, III, 1126. Thomas Lloyd had promised a two-volume edition of the Pennsylvania Convention debates, but he published only one volume of Federalist speeches. See RCS:Pa., 41; and CC:511.). After the first volume of Virginia debates appeared, but before Mason had seen it, he again anticipated the worst. He told his son that he would forward him the debates as soon as he received them “tho’ I believe they will hardly be worth your Attention; being, I am told, very partially garbled, by the short-hand writer, who took them down, & published them; this I always expected; as I understood the Man was a federal Partizan; and they, you know, as well as I do, stick at nothing. . . . Some of the Federalists (as they call themselves) revised & corrected their Speeches; & I know that some of the principal Gentlemen on the other Side were privately applied to, by the Short-hand Writer, to do the same;

but treated the proposal with Contempt" (18 December 1788, Rutland, *Mason*, III, 1137).

Many years later, John Marshall (another Convention delegate) also commented on the accuracy of Robertson's *Debates*. In a memorandum of a March 1832 conversation between himself and Marshall, Thomas H. Bayly (a young Accomack County lawyer) recalled that "Upon being asked by me how the speeches of the different members of the Virginia Convention which adopted the F. Constitution—were reported by Robertson he said—that the speeches of Mr. Greyson & Mr. Munroe were Written out by them before publication & that consequently their speeches as published, as might be presumed, were not much worse than when delivered;—that Mr. George Mason spoke from very copious notes & spoke very slow & distinct & that he was well reported;—Gov: Randolph whose elocution was good was pretty well reported,—Mr. Madison was badly reported,—Mr. Henry was reported worst of all,—no reporter could Correctly reporte him.—'And as to what is given to me (said the Cheaf Justice) if my name had not have been prefixed to the speeches I never should have recognized them as productions of mine—'" (Acc. 24247, Vi. The memorandum was written and signed by Bayly on the flyleaf of a copy of the 1805 edition of Robertson's *Debates*.).

Robertson himself was not entirely satisfied with his note taking. At the end of the third volume, following the errata, he noted that he had been forced to take "an ineligible seat in the Gallery, a situation remote from the speakers, where he was frequently interrupted by the noise made by those who were constantly going out and coming in." Robertson admitted that "he must have lost some of the most beautiful periods and best observations of the different speakers." He also was "afraid that in some instances, he *may* have misapprehended their meaning." Robertson hoped for "an indulgent forgiveness for any imperfections the DEBATES may contain, whether from omission or other inaccuracy," declaring "that he was governed by the most sacred regard to justice and impartiality, of which, he flatters himself, the work itself will be a sufficient proof" (*Debates*, III, 228; and Mfm:Va.).

Robertson admitted to having other problems in preparing the debates. Coupled with "the pressure of his other avocations," he was hired to take shorthand notes of the debates of the first North Carolina Convention. These other duties "disabled him from furnishing the Printer with so fair a copy as he would otherwise have done—He was only able to give him a rough transcription from the Short-Hand original. The inaccuracies and errors in the punctuation, must be attributed to his inability to overlook the Press.—The Printer having been de-

prived of the usual aid of a proof sheet," Robertson "hoped the typographical errors will be therefore excused" (*Debates*, III, 228). On 23 June, Robertson was absent from the Convention and on other occasions he passed over what he described as "desultory" parts of speeches or "a desultory conversation" among the delegates. Sometimes, he noted that he could not hear the speakers, most particularly James Madison. In 1827, Madison commented on Robertson's reports of his speeches: "I find passages, some appearing to be defective, others obscure, if not unintelligible, others again which must be more or less erroneous. These flaws in the Report of my observations, may doubtless have been occasioned in part by a want of due care in expressing them; but probably in part also by a feebleness of voice caused by an imperfect recovery from a fit of illness, or by a relaxed attention in the Stenographer himself incident to long & fatiguing discussions. Of his general intelligence & intentional fidelity, no doubt has been suggested" (to Jonathan Elliot, November 1827, Madison Papers, DLC).

Because the *Debates* were "in great demand, and not to be procured," Robertson published a second edition (in one volume) in 1805 which he "in part revised and corrected . . . by reference to part of the stenographical manuscript which is preserved in his possession; part of it has been destroyed." Robertson indicated that "This revision might perhaps have been *perfect*, could he have had some communication with the speakers on some points. As he could not communicate with *all*, he declined, for obvious reasons, to communicate with *any*" (*Debates*, 1805 ed., viii). In general, Robertson confined his textual alterations to capitalization, spelling, and the creation of more manageable paragraphs. All significant alterations have been indicated in angle brackets, and Robertson's preface to the 1805 edition of the *Debates* has been placed on Mfm:Va.

Despite their shortcomings, Robertson's *Debates* hold a unique place in Virginia history and in the history of the debate over the ratification of the Constitution. Never before had the debates of a deliberative body in Virginia been published; and no more complete and informative set of debates exists for any of the other state conventions. In the preface to the 1805 edition (p. vii), after listing some of the prominent participants in the debates, Robertson underlined the significance of the debates when he noted that "When such talents were combined with such an unshackled and manly spirit of investigation, what could have been expected but luminous and valuable discussions?"

## Delegates to the Virginia Convention

During March 1788, 170 men were elected to the Convention. A "Y" is placed after the name of each delegate who voted to ratify the Constitution, an "N" after those who voted against ratification, and an "A" after the two absent delegates.

### OFFICERS

**PRESIDENT**  
Edmund Pendleton  
**VICE PRESIDENT**  
John Tyler  
**SECRETARY**  
John Beckley  
**PRINTER**  
Augustine Davis

**CHAPLAIN**  
Abner Waugh  
**SERGEANT AT ARMS**  
William Pierce  
**DOORKEEPERS**  
William Drinkard, Sr.  
William Drinkard, Jr.  
Daniel Hicks

**COMMITTEE OF PRIVILEGES AND ELECTIONS**  
Benjamin Harrison, chair  
Edmund Pendleton, Jr., clerk  
**COMMITTEE OF THE WHOLE (Chairs)**  
George Wythe  
Benjamin Harrison  
Thomas Mathews

### DELEGATES

**ACCOMACK**  
Edmund Custis (N)  
George Parker (Y)  
**ALBEMARLE**  
George Nicholas (Y)  
Wilson Cary Nicholas (Y)  
**AMELIA**  
John Pride (N)  
Edmund Booker (N)  
**AMHERST**  
William Cabell (N)  
Samuel Jordan Cabell (N)  
**AUGUSTA**  
Zachariah Johnston (Y)  
Archibald Stuart (Y)  
**BEDFORD**  
John Trigg (N)  
Charles Clay (N)  
**BERKELEY**  
William Darke (Y)  
Adam Stephen (Y)  
**BOTETOURT**  
William Fleming (Y)  
Martin McFerran (Y)  
**BOURBON**  
Henry Lee (N)  
Notley Conn (A)  
**BRUNSWICK**  
John Jones (N)  
Binns Jones (N)  
**BUCKINGHAM**  
Charles Patteson (N)  
David Bell (N)

**CAMPBELL**  
Robert Alexander (N)  
Edmund Winston (N)  
**CAROLINE**  
Edmund Pendleton (Y)  
James Taylor (Y)  
**CHARLES CITY**  
Benjamin Harrison (N)  
John Tyler (N)  
**CHARLOTTE**  
Thomas Read (N)  
Paul Carrington (Y)  
**CHESTERFIELD**  
David Patteson (Y)  
Stephen Pankey, Jr. (N)  
**CULPEPER**  
French Strother (N)  
Joel Early (N)  
**CUMBERLAND**  
Joseph Michaux (N)  
Thomas H. Drew (N)  
**DINWIDDIE**  
Joseph Jones (N)  
William Watkins (N)  
**ELIZABETH CITY**  
Miles King (Y)  
Worlich Westwood (Y)  
**ESSEX**  
James Upshaw (N)  
Meriwether Smith (N)  
**FAIRFAX**  
David Stuart (Y)  
Charles Simms (Y)

**FAUQUIER**  
Martin Pickett (Y)  
Humphrey Brooke (Y)  
**FAYETTE**  
Humphrey Marshall (Y)  
John Fowler (N)  
**FLUVANNA**  
Samuel Richardson (N)  
Joseph Haden (N)  
**FRANKLIN**  
John Early (N)  
Thomas Arthur (N)  
**FREDERICK**  
John Shearman  
Woodcock (Y)  
Alexander White (Y)  
**GLOUCESTER**  
Warner Lewis (Y)  
Thomas Smith (Y)  
**GOOCHLAND**  
John Guerrant (N)  
William Sampson (N)  
**GREENBRIER**  
George Clendinen (Y)  
John Stuart (Y)  
**GREENSVILLE**  
William Mason (Y)  
Daniel Fisher (Y)  
**HALIFAX**  
Isaac Coles (N)  
George Carrington (N)  
**HAMPSHIRE**  
Andrew Woodrow (Y)  
Ralph Humphreys (Y)



- HANOVER**  
Parke Goodall (N)  
John Carter Littlepage (N)
- HARDY**  
Isaac Vaymeter (Y)  
Abel Seymour (Y)
- HARRISON**  
George Jackson (Y)  
John Prunty (Y)
- HENRICO**  
Edmund Randolph (Y)  
John Marshall (Y)
- HENRY**  
Thomas Cooper (N)  
John Marr (N)
- ISLE OF WIGHT**  
Thomas Pierce (A)  
James Johnson (Y)
- JAMES CITY**  
Nathaniel Burwell (Y)  
Robert Andrews (Y)
- JEFFERSON**  
Robert Breckenridge (Y)  
Rice Bullock (Y)
- KING AND QUEEN**  
William Fleet (Y)  
Thomas Roane (N)
- KING GEORGE**  
Burdet Ashton (Y)  
William Thornton (Y)
- KING WILLIAM**  
Holt Richeson (N)  
Benjamin Temple (N)
- LANCASTER**  
James Gordon (Y)  
Henry Towles (Y)
- LINCOLN**  
John Logan (N)  
Henry Pawling (N)
- LOUDOUN**  
Stevens Thomson  
Mason (N)  
Levin Powell (Y)
- LOUISA**  
William Overton Callis (Y)  
William White (N)
- LUNENBURG**  
Jonathan Patteson (N)  
Christopher Robertson (N)
- MADISON**  
John Miller (N)  
Green Clay (N)
- MECKLENBURG**  
Samuel Hopkins, Jr. (N)  
Richard Kennon (N)
- MERCER**  
Thomas Allen (N)  
Alexander Robertson (N)
- MIDDLESEX**  
Ralph Wormeley, Jr. (Y)  
Francis Corbin (Y)
- MONONGALIA**  
John Evans (N)  
William McClerry (Y)
- MONTGOMERY**  
Walter Crockett (N)  
Abraham Trigg (N)
- NANSEMOND**  
Willis Riddick (Y)  
Solomon Shepherd (Y)
- NELSON**  
Matthew Walton (N)  
John Steele (N)
- NEW KENT**  
William Clayton (Y)  
Burwell Bassett (Y)
- NORFOLK BOROUGH**  
Thomas Mathews (Y)
- NORFOLK COUNTY**  
James Webb (Y)  
James Taylor (Y)
- NORTHAMPTON**  
John Stringer (Y)  
Littleton Eyre (Y)
- NORTHUMBERLAND**  
Walter Jones (Y)  
Thomas Gaskins (Y)
- OHIO**  
Archibald Woods (Y)  
Ebenezer Zane (Y)
- ORANGE**  
James Madison (Y)  
James Gordon (Y)
- PITTSYLVANIA**  
Robert Williams (N)  
John Wilson (N)
- POWHATAN**  
William Ronald (Y)  
Thomas Turpin, Jr. (N)
- PRINCE EDWARD**  
Patrick Henry (N)  
Robert Lawson (N)
- PRINCE GEORGE**  
Theodorick Bland (N)  
Edmund Ruffin (N)
- PRINCE WILLIAM**  
William Grayson (N)  
Cuthbert Bullitt (N)
- PRINCESS ANNE**  
Anthony Walke (Y)  
Thomas Walke (Y)
- RANDOLPH**  
Benjamin Wilson (Y)  
John Wilson (Y)
- RICHMOND COUNTY**  
Walker Tomlin (Y)  
William Peachey (Y)
- ROCKBRIDGE**  
William McKee (Y)  
Andrew Moore (Y)
- ROCKINGHAM**  
Thomas Lewis (Y)  
Gabriel Jones (Y)
- RUSSELL**  
Thomas Carter (N)  
Henry Dickenson (N)
- SHENANDOAH**  
Jacob Rinker (Y)  
John Williams (Y)
- SOUTHAMPTON**  
Benjamin Blunt (Y)  
Samuel Kello (Y)
- SPOTSYLVANIA**  
James Monroe (N)  
John Dawson (N)
- STAFFORD**  
George Mason (N)  
Andrew Buchanan (N)
- SURRY**  
John Hartwell Cocke (Y)  
John Allen (Y)
- SUSSEX**  
John Howell Briggs (N)  
Thomas Edmunds (N)
- WARWICK**  
Cole Digges (Y)  
Richard Cary (N)
- WASHINGTON**  
Samuel Edmiston (N)  
James Montgomery (N)
- WESTMORELAND**  
Henry Lee (Y)  
Bushrod Washington (Y)
- WILLIAMSBURG**  
James Innes (Y)
- YORK**  
John Blair (Y)  
George Wythe (Y)

**The Virginia Convention**  
**Monday**  
**2 June 1788**

**Debates<sup>1</sup>**

This being the day recommended by the Legislature for the meeting of the Convention, to take into consideration the proposed Plan of Federal Government, a majority of the Gentlemen delegated thereto, assembled at the Public Buildings, in Richmond,—Whereupon they proceeded to the choice of a Secretary, when Mr. JOHN BECKLEY,<sup>2</sup> was appointed to that office.

The Honorable EDMUND PENDLETON, was nominated, and unanimously elected President; who being seated in the Chair, thanked the Convention for the honor conferred on him, and strongly recommended to the members to use the utmost moderation and temper in their deliberations on the great and important subject now before them.<sup>3</sup>

On the recommendation of Mr. *Paul Carrington*,<sup>4</sup> the REV. ABNER WAUGH was unanimously elected Chaplain to the Convention, and ordered to attend every morning to read prayers, immediately after the bell shall be rang for calling the Convention.

The Convention then appointed William Drinkard, sen. and William Drinkard, jun. Door-keepers.

On motion,—*Ordered*, That a Committee of Privileges and Elections, be appointed.

And a Committee was appointed of Mr. Benjamin Harrison, Mr. George Mason, His Excellency Governor Randolph, Mr. Henry, Mr. George Nicholas, Mr. John Marshall, Mr. Paul Carrington, Mr. Tyler, Mr. Alexander White, Mr. Blair, Mr. Bland, Mr. Grayson, Mr. Fisher, Mr. Mathews, Mr. John Jones, Mr. Wythe, Mr. William Cabell, Mr. James Taylor, (of Caroline) Mr. Gabriel Jones, Mr. Corbin, Mr. Innes, Mr. Monroe, Mr. Henry Lee, and Mr. Bullitt.

*Ordered*, That the Committee of Privileges and Elections do examine and report the returns for electing Delegates to serve in this Convention; and, that in cases where no returns are made, it be an instruction to the said Committee, to receive such evidence as the sitting member shall produce of his election, and report the same to the Convention.

On motion,—*Ordered*, That Mr. EDMUND PENDLETON, jun. be appointed Clerk to the Committee of Privileges and Elections.

Mr. *Paul Carrington* presented a petition of Thomas Stith, of the county of Brunswick, complaining of an undue election and return of Binns Jones, one of the Delegates returned to serve in this Convention, for the said county of Brunswick;—which was ordered to be referred to the Committee of Privileges and Elections.<sup>5</sup>

On motion of Mr. *Corbin*,—*Ordered*, That Mr. AUGUSTINE DAVIS, be appointed Printer to the Convention, and that he cause to be printed, forthwith, two hundred copies of the Plan of Federal Government—also two hundred copies of the Resolutions of the General Assembly of the 25th of October last, to be distributed among the members of this Convention.

On motion of Mr. *George Mason*,—*Ordered*, That the Convention be adjourned until to-morrow morning, eleven o'clock, then to meet at the New Academy, on Shockœ-Hill, in this city.<sup>6</sup>

1. This day's minutes were printed in the *Virginia Independent Chronicle* on 4 June (Mfm:Va.). By 3 July, they were reprinted in twenty-one newspapers (nine complete and twelve excerpted reprintings): N.H. (1), Mass. (5), R.I. (1), Conn. (1), N.Y. (5), Pa. (4), Va. (4). Pendleton's election was also reported briefly in the *Virginia Herald* on 5 June and in many other newspapers.

2. Beckley, a lawyer, was clerk of the Senate, 1777–79, the High Court of Chancery, 1779–85, and the House of Delegates, 1779–89; mayor of Richmond, 1783–84, 1788–89; and clerk of the U.S. House of Representatives, 1789–97, 1801–7.

3. Pendleton's speech is printed immediately below.

4. Carrington (1733–1818), a planter-lawyer and elder brother of Edward Carrington, was a deputy king's attorney for several counties before the Revolution; Halifax County clerk, 1773–76; a Charlotte County delegate to the House of Burgesses, 1765–76, and to two of the five revolutionary conventions, 1774–76; a member of the Senate, 1776–78; a judge of the General Court, 1778–88 (chief justice, 1780–88); and a judge of the Supreme Court of Appeals, 1789–1807.

5. For the text and a summary of the Convention's disposition of Stith's petition, which the Convention Journal indicates was read to the Convention, see Brunswick County Election, II above.

6. The New Academy, or the Academy of Sciences and Fine Arts of the United States of America, was founded in 1786 by a Frenchman, Alexandre Marie Quesnay de Beaurepaire. Strapped for funds, Quesnay temporarily rented the "Hall" (the central portion of the building) to a group of actors, who advertised their performances as taking place in the "New Theatre."

### **Edmund Pendleton: Address to the Convention, 2 June<sup>1</sup>**

Gentn.

The Distinguished Honr. of being called to preside over this August Body, gives me the most pleasing sensations, and excites sentiments of the warmest gratitude, considering it as an Evidence that my Conduct in the various Public employments wch. have occupied Great part of my life, have Fortunately met the Approbation of my Country. For

giving me this testimony, You will be pleased to accept my unfeigned thanks.

My wish to have been excused From this appointment, how[ev]er Flattering, *proceeded*, Not From the old Farce of "Nolo Episcopari",<sup>2</sup> but, From a Consciousness of decline in my Mental powers, and my bodily infirmities, conspiring to render me unable to discharge the *duties*.

However, since knowing these, you have been pleased to call me to these duties, my best powers, such as they are, shall be *exerted*, to prevent *dishonr.* or *inconvenience* to the House, or the Occasion.<sup>3</sup>

I pledge my self for the Integrity of my *heart*, and shall rely on the Benignity of the House to cast a Vail over misduties proceeding from *Infirmity*.

Order & Decorum in the deliberations of all Public bodies, is absolutely necessary, not only to preserve their *Dignity*, but that reason & Argument may have their proper effect in decision, & not be lost in confusion & disorder. You have made it my duty to be the Sentinel over Order, & my endeavrs. to preserve it shall not be *wanting*. But those will be wholly *ineffectual*, unless Assisted by your *example & Support*, which I shall therefore confidently hope For.  
Gentn.

We are met together on this Solemn Occasion as Trustees for a Great people, the Citizens of Virginia, to deliberate & decide upon a Plan proposed for the Government of the United States, of which they are a *Member*.

The Trust is *Sacred & important*, and requires our most Serious *Attention*. Let us calmly reason With each other, as Friends, having all the same end in *view*, the real happiness of our *Constituents*, avoiding all *heats, Intemperance & Personal Altercations*, which always *impede*, but never *Assist Fair* Investigation. Let us Probe the Plan to the Bottom, but let us do it *with Candor, temper & mutual Forbearance*: & finally decide as our Judgment shall direct.

Thus proceeding, we may reasonably hope to stand justified in the Decision, whatever it may be, to those we Act For, to God & the world

1. AD, The Papers of Andrew J. Donelson, DLC. Docketed by Pendleton: "EP's Address to the Conventn./on his Election June 2d. 1788."

2. Translated literally *nolo episcopari* means "I do not wish to be made a bishop." The phrase came to mean a refusal of an office.

3. In 1793 Pendleton wrote in his autobiography that the Convention compensated for his "bodily infirmities" by allowing him to preside while seated instead of following the usual practice of standing. Pendleton had used crutches since March 1777, when he had fallen off a horse and dislocated his hip (David John Mays, *Edmund Pendleton, 1721-1803: A Biography* [2 vols., Cambridge, Mass., 1952], I, 356).

Pendleton's health declined after his accident, and, periodically, he suffered from a variety of ailments. In 1786 he developed a wheezing condition accompanied by shortness of breath that his physician diagnosed as asthma. His condition soon improved, but it recurred "when I take cold, which I am careful to avoid" (*ibid.*, II, 208-10. For references to Pendleton's health in the fall and winter before the meeting of the Virginia Convention, see RCS:Va., 25, 48, 208, 398; and Rutland, *Madison*, X, 204.).

On 14 June 1788 Pendleton asked the Convention to be excused from his duties because of the "day's extream dampness, & that of the House we sit in made thoroughly wet by a Hail Storm yesterday" (to Richard Henry Lee, V below). The Convention excused Pendleton and elected John Tyler vice president, who presided that day in Pendleton's absence.

### Newspaper Report of Debates<sup>1</sup>

Extract of a letter from Richmond, June 2.

"It was to day agitated whether the short hand gentlemen should be suffered to take down the business of the house, for public information. Opposed by Henry, Mason, Grayson and White, with success. Mr. Mason rested his opposition upon this ground, that these gentlemen were strangers—that it was an important trust for any one—for not only the people at large might be misinformed, but a fatal stab might be given to a gentleman of the house from a perversion of his language—that it was a breach of privilege, and had been frequently determined so by the House of Commons;<sup>2</sup>—that to shew the member who moved this question, that his objections proceeded from those principles, and not from a wish to be again a member of another *conclave*, he had given his voice for an adjournment to the Theatre, where, surrounded by his countrymen, he would endeavour to speak the language of his soul.

"Mr. Nicholas was up several times upon this subject, and had been the first mover of it; but at last relinquished it as not tenable."

1. This report was first printed in the *Virginia Herald*, 5 June. It was reprinted in the two Winchester newspapers on 11 June, and in fifteen out-of-state newspapers between 10 and 23 June: Conn. (3), N.Y. (5), Pa. (5), Md. (2).

2. In 1642, 1695, 1697, 1722, 1728, and 1738, the House of Commons resolved that it would be a breach of its privileges for anyone to report its debates. It also adopted The Standing Order of 31 October 1705 that forbade strangers from entering the House. In 1771, however, the Commons tacitly changed its policy and allowed the reporting of its debates. Seven years later it relaxed The Standing Order. In 1783 journalists and other strangers were permitted to take notes.

**The Virginia Convention**  
**Tuesday**  
**3 June 1788**

**Debates<sup>1</sup>**

The Convention met at the New Academy, on Shockœ-Hill, pursuant to adjournment.

Mr. *Lee* presented a petition of Richard Morris, of the county of Louisa, complaining of an undue election and return of William White, as one of the Delegates to serve in this Convention for the said county of Louisa;—which was ordered to be referred to the Committee of Privileges and Elections.<sup>2</sup>

On motion of Mr. *Harrison*,—*Ordered*, That Mr. WILLIAM PIERCE be appointed Serjeant at Arms, to the Convention.

On motion of Mr. *John Jones*,—*Ordered*, That Daniel Hicks be appointed Door-keeper to the Convention.

Mr. *Harrison* moved, that all the papers relative to the Constitution should be read.

Mr. *Tyler*, observed, that before any papers were read, certain rules and regulations should be established to govern the Convention in their deliberations; which being necessary on all occasions, are more particularly so on this great and important one.

Governor *Randolph*, said, that he was fully convinced of the necessity of establishing rules—but as this was a subject which might involve the Convention in a debate that would take up considerable time,—he recommended that the rules of the House of Delegates, as far as they were applicable, should be observed.

Mr. *Tyler* replied, that he had considered what the Honorable Gentleman had said, and had no objection to the mode recommended by him.

Upon which, the Convention came to the following resolution:

*Resolved*, That the rules and orders for conducting business in the House of Delegates, so far as the same may be applicable to the Convention, be observed therein.

On motion,—The Resolution of Congress of the 28th of September last, together with the report of the Federal Convention lately held in Philadelphia; the Resolutions of the General Assembly of the 25th of October last, and the Act of the General Assembly, intituled, “An Act concerning the Convention to be held in June next;” were read,<sup>3</sup>—Whereupon Mr. *Mason* addressed the President as follows:

Mr. President.—I hope and trust, Sir, that this Convention, appointed by the people, on this great and important occasion, for securing, as far as possible, to the latest generation, the happiness and liberty of the people, will freely and fully investigate this important subject—for this purpose, I humbly conceive, the fullest and clearest investigation indispensably necessary, and that we ought not to be bound by any general rules whatsoever.—The curse denounced by the divine vengeance, will be small, compared to what will justly fall upon us, if from any sinister views we obstruct the fullest enquiry.—This subject, therefore, ought to obtain the freest discussion, clause by clause, before any general previous question be put, nor ought it to be precluded by any other question.

Mr. *Tyler* moved, that the Convention should resolve itself into a Committee of the whole Convention, to-morrow, to take into consideration the proposed Plan of Government, in order to have a fairer opportunity of examining its merits.

Mr. *Mason*, after re-capitulating his former reasons for having urged a full discussion, clause by clause, concluded, by agreeing with Mr. *Tyler*, that a Committee of the whole Convention, was the most proper mode of proceeding.

Mr. *Madison* concurred with the Honorable Gentlemen, in going into a full and free investigation of the subject before them, and said he had no objection to the plan proposed.

Mr. *Mason* then moved the following resolution, which was agreed to by the Convention, unanimously.

*Resolved*, That no question, general or particular, shall be propounded in this Convention, upon the proposed Constitution of Government for the United States, or upon any clause or article thereof, until the said Constitution shall have been discussed, clause by clause, through all its parts.<sup>4</sup>

Mr. *Tyler* said, he should renew his motion for the Convention to resolve itself into a Committee of the whole Convention, the next day, to take under consideration the proposed Plan of Government.

Mr. *Lee* strongly urged the necessity and propriety of immediately entering into the discussion.

Mr. *Mason*—Mr. President.—No man in this Convention is more averse to take up the time of the Convention than I am; but I am equally against hurrying them precipitately into any measure. I humbly conceive, Sir, that the members ought to have time to consider the subject. Precious as time is, we ought not to run into the discussion before we have the proper means.

Mr. *Harrison* urged as a reason for deferring the discussion till to-morrow, that many of the members had not yet arrived, and that it would be improper to enter into the business, till they should arrive.

Mr. *Lee* answered the two objections against entering immediately into the business—He begg'd Gentlemen to consider, that they were limited in point of time; that if they did not complete their business by the 22d day of the month, they should be compelled to adjourn, as the Legislature was to meet the 23d.<sup>5</sup>—He also begg'd Gentlemen to consider the consequences of such an adjournment: That the Constitution, he believed, was very fully understood by every Gentleman present, having been the subject of public and private consideration of most persons on the Continent, and of the peculiar meditation of those who were deputed to this Convention.

The Convention then came to the following resolution:

*Resolved*, That this Convention will, to-morrow, resolve itself into a Committee of the whole Convention, to take into consideration the proposed Constitution of Government for the United States.

And then the Convention adjourned until to-morrow, eleven o'clock.

1. This day's minutes were printed in the *Virginia Independent Chronicle* on 11 June (Mfm:Va.) and an excerpt appeared in the *Virginia Centinel* on 18 June. Between 11 June and 3 July, the *Chronicle's* entire account was reprinted in five out-of-state newspapers, while excerpts appeared in thirteen others: N.H. (1), Mass. (5), R.I. (1), N.Y. (5), Pa. (4), Md. (1), S.C. (1).

2. Morris' petition, which the Convention Journal says was read to the House, has not been located. For a summary of the disposition of the petition, see Louisa County Election (II above); see also Convention Debates, 7 and 21 June (below).

3. For the report of the Constitutional Convention and the congressional resolution, see CC:76 and 95; and for the resolutions of 25–31 October and the act of 12 December, see RCS:Va., 118, 190–91.

4. For commentaries on George Mason's motion, see James Madison to George Washington, 4 June; Washington to John Jay, 8 June, and to Henry Knox, 17 June; *Pennsylvania Packet*, 21 and 24 June; and *New York Daily Advertiser*, 21 June (all in V below).

5. For the call of this special legislative session, see Charles Lee to George Washington, 14 May, note 2 (III above).

## The Virginia Convention Wednesday 4 June 1788

### Debates<sup>1</sup>

Mr. *Harrison* reported from the Committee of Privileges and Elections, that the Committee had, according to order, examined the re-



turns for electing Delegates to serve in this Convention, and had come to a resolution thereupon, which he read in his place, and afterwards delivered in at the clerk's table, where the same was again twice read, and agreed to by the House, as followeth:

*Resolved, That it is the opinion of this Committee, That the returns for electing Delegates to serve in this Convention for the counties of Albemarle, Amelia, Amherst, Bedford, Botetourt, Berkeley, Brunswick, Buckingham, Caroline, Charlotte, Charles-City, Chesterfield, Culpeper, Cumberland, Dinwiddie, Elizabeth-City, Fauquier, Fairfax, Fayette, Fluvanna, Frederick, Gloucester, Goochland, Greenbrier, Greensville, Halifax, Hampshire, Hardy, Harrison, Hanover, Henrico, Henry, James-City, Jefferson, Isle-of-Wight, King George, King & Queen, King William, Lancaster, Lincoln, Loudon, Louisa,<sup>2</sup> Lunenburg, Madison, Mecklenburg, Mercer, Middlesex, Monongalia, Montgomery, Nansemond, New-Kent, Nelson, Norfolk, Northampton, Northumberland, Ohio, Orange, Pittsylvania, Princess-Anne, Prince George, Prince William, Prince Edward, Powhatan, Randolph, Richmond, Rockbridge, Rockingham, Russel, Shenandoah, Southampton, Spotsylvania, Stafford, Surry, Sussex, Warwick, Washington, York, and of a Delegate for the borough of Norfolk, and city of Williamsburg, are satisfactory.<sup>3</sup>*

Mr. *Harrison* reported from the Committee of Privileges and Elections, that the Committee had enquired into the elections of Delegates for the counties of Accomack and Franklin, and had agreed to a report, and come to several resolutions thereupon, which he read in his place, and afterwards delivered in at the clerk's table, where the same were again twice read, and agreed to by the House, as followeth:<sup>4</sup>

It appears to your Committee, that no returns have been made of the election of Delegates to serve in this Convention, for the counties of Accomack and Franklin; that as to the election of Delegates for the said county of Accomack, it appears from the information of Nathaniel Darby, and Littleton Eyre, Esquires, that they were at the election of Delegates for the said county of Accomack, in March last, and that George Parker, and Edmund Custis, Esquires, (the sitting members) were proclaimed by the Sheriff, at the close of the poll, as duly elected Delegates to represent the said county in this Convention.

That as to the election of Delegates for the said county of Franklin, it appears to your Committee, from the information of Robert Williams, Esquire, that he was at the election of Delegates for the said county of Franklin, in March last, and that John Early, and Thomas Arthurs, Esquires, (the sitting members) were proclaimed by the Sheriff, at the close of the poll, as duly elected Delegates to represent the said county in this Convention.

*Resolved, That it is the opinion of this Committee, That Edmund Custis, and George Parker, Esquires, were elected Delegates to represent the said county of Accomack in this Convention.*

*Resolved, That it is the opinion of this Committee, That John Early, and Thomas Arthurs, Esquires, were elected Delegates to represent the said county of Franklin in this Convention.*

*Ordered, That Mr. Madison and Mr. Lawson be added to the Committee of Privileges and Elections.*

Mr. *Archibald Stuart* presented a petition of Samuel Anderson, of the county of Cumberland, setting forth, that Thomas H. Drew, Esquire, one of the Delegates returned for the said county, to serve in this Convention, was not, at the time of his election, a freeholder in this Commonwealth; and praying that the election of the said Thomas H. Drew, may be set aside, and another election directed to supply his place:<sup>5</sup>—which was read, and ordered to be referred to the Committee of Privileges and Elections.

The Convention, according to the order of the day, resolved itself into a Committee of the whole Convention, to take into consideration, the proposed plan of Government—Mr. *Wythe* in the Chair.

Mr. *Henry* moved, That the Act of Assembly appointing Deputies to meet at Annapolis, to consult with those from some other States, on the situation of the commerce of the United States—The Act of Assembly for appointing Deputies to meet at Philadelphia, to revise the Articles of Confederation—and other public papers relative thereto—should be read.<sup>6</sup>

Mr. *Pendleton* then spoke to the following effect:

Mr. Chairman—We are not to consider whether the Federal Convention exceeded their powers. It strikes my mind, that this ought not to influence our deliberations. This Constitution was transmitted to Congress by that Convention: By the Congress transmitted to our Legislature: By them recommended to the people: The people have sent us hither to determine whether this Government be a proper one or not. I did not expect these papers would have been brought forth. Although those Gentlemen were only directed to consider the defects of the old system, and not devise a new one; if they found it so thoroughly defective as not to admit a revision, and submitted a new system to our consideration, which the people have deputed us to investigate, I cannot find any degree of propriety in reading those papers.

Mr. *Henry* then withdrew his motion.

The Clerk proceeded to read the preamble, and the two first sections of the first Article.

Mr. *Nicholas*—Mr. Chairman.—The time being now come when this State is to decide on this important question, of rejecting or receiving

this plan of Government, it gave me great pleasure yesterday, when the Convention determined to proceed with the fullest deliberation on the subject; as every Gentleman will, in the course of the discussion, have an opportunity to urge every objection that may arise in his mind against this system. I beg Gentlemen to offer all their objections here, and that none may be insisted on elsewhere; and I hope nothing urged without these walls, will influence the minds of any one. If this part of the plan now under consideration be materially defective, I will readily agree it ought to be wholly rejected, because representation is the corner stone on which the whole depends; but if on investigation it should be found to be otherwise, the highest gratitude should be shewn to those Gentlemen who framed it—although some small defects may appear in it, yet its merits I hope will amply cover those defects.

I shall take it into consideration first—as it affects the qualifications of the electors,—2dly. as it affects the qualification(s) of the elected,—3dly. as to their numbers,—4thly. the time of their continuance in office,—5thly. their power,—and, 6thly, whether this power be sufficient to enable them to discharge their duty, without diminishing the security of the people—or in other words, their responsibility.

I will consider it first then, as to the qualifications of the electors.—The best writers on government agree that in a republic those laws which fix the right of suffrage are fundamental, if therefore by the proposed plan it is left uncertain in whom the right of suffrage is to rest, or if it has placed that right in improper hands, I shall admit that it is a radical defect: But in this plan (there) is a fixed rule for determining the qualification(s) of electors—and that rule the most judicious that could possibly have been devised: because it refers to a criterion which cannot be changed. A qualification that gives a right to elect Representatives for the State Legislatures, gives also by this Constitution a right to choose Representatives for the general Government. As the qualification(s) of electors are different in the different States, no particular qualification uniform through the States would have been politic, as it would have caused a great inequality in the electors, resulting from the situation and circumstances of the respective States. Uniformity of qualifications would greatly affect the yeomanry in the States, as it would either exclude from this inherent right some who are entitled to it by the laws of some States at present; or be extended so universally, as to defeat the admirable end of the institution of representation.

Secondly.—As it respects the qualifications of the elected. It has ever been considered as a great security to liberty, that very few should be excluded from the right of being chosen to the Legislature. This Con-

stitution has amply attended to this idea. We find no qualifications required except those of age and residence, which create a certainty of their judgment being matured, and of being attached to their State. It has been objected, that they ought to be possessed of landed estates, but, Sir, when we reflect that most of the electors are landed men, we must suppose they will fix on those who are in a similar situation with themselves. We find there is a decided majority attached to the landed interest, consequently the landed interest must prevail in the choice. Should the State be divided into districts, in no one can the mercantile interest by any means have an equal weight in the elections—therefore the former will be more fully represented in the Congress—and yet men of eminent abilities are not excluded for the want of landed property.—There is another objection which has been echoed from one end of the Continent to the other—that Congress may alter the time, place and manner of holding elections—that they may direct the place of election to be where it will be impossible for those who have a right to vote, to attend: For instance, that they may order the freeholders of Albemarle, to vote in the county of Princess Anne, or *vice versa*—or, regulate elections otherwise in such a manner as totally to defeat their purpose, and lay them entirely under the influence of Congress. I flatter myself, that from an attentive consideration of this power, it will clearly appear, that it was essentially necessary to give it to Congress, as without it there could have been no security for the general government against the State Legislatures. What, Mr. Chairman, is the danger apprehended in this case? If I understand it right, it must be, that Congress might cause the elections to be held in the most inconvenient places, and at so inconvenient a time, and in such a manner, as to give them the most undue influence over the choice; nay, even (to) prevent the elections from being held at all, in order to perpetuate themselves. But what would be the consequence of this measure? It would be this, Sir, that Congress would cease to exist—It would destroy the Congress itself—It would absolutely be an act of suicide—and therefore, it can never be expected. This alteration, so much apprehended, must be made by law; that is, with the concurrence of both branches of the Legislature. Will the House of Representatives, the members of which are chosen only for two years, and who depend on the people for their re-election, agree to such an alteration? It is unreasonable to suppose it. But let us admit, for a moment, that they will: What would be the consequence of passing such a law? It would be, Sir, that after the expiration of the two years, at the next election they would either choose such men as would alter the law, or they would resist the government. An enlightened people will never suffer

what was established for their security, to be perverted to an act of tyranny. It may be said, perhaps, that resistance would then become vain: Congress are vested with the power of raising an army: To which I say, that if ever Congress shall have an army sufficient for their purpose, and disposed to execute their unlawful commands, before they would act under this disguise, they would pull off the mask and declare themselves absolute. I ask, Mr. Chairman, is it a novelty in our government? Has not our State Legislature the power of fixing the time, places, and manner of holding elections? The possible abuse here complained of, never can happen as long as the people of the United States are virtuous: As long as they continue to have sentiments of freedom and independance; should the Congress be wicked enough to harbour so absurd an idea, as this objection supposes, the people will defeat their attempt, by choosing other Representatives who will alter the law. If the State Legislature, by accident, design, or any other cause, would not appoint a place for holding elections, then there might be no election till the time was past for which they were to have been chosen; and as this would eventually put an end to the Union, it ought to be guarded against, and it could only be guarded against by giving this discretionary power to the Congress, of altering the time, place, and manner, of holding the elections. It is absurd to suppose that Congress will exert this power, or change the time, place, and manner, established by the States, if the States will regulate them properly, or so as not to defeat the purposes of the Union. It is urged, that the State Legislatures ought to be fully and exclusively possessed of this power. Were this the case, it might certainly defeat the government. As the powers vested by this plan in Congress, are taken from the State Legislatures, they would be prompted to throw every obstacle in the way of the general government. It was then necessary that Congress should have this power. Another strong argument for the necessity of this power is, that if it was left solely to the States, there might have been as many times of choosing as there are States. States having solely the power of altering and establishing the time of election, it might happen that there should be no Congress; not only by omitting to fix a time, but also by the elections in the States being at thirteen different times, such intervals might elapse between the first and last election, as to prevent there being a sufficient number to form a House; and this might happen at a time when the most urgent business rendered their session necessary: And by this power, this great part of the representation will be always kept full, which will be a security for a due attention to the interest of the community; and also the power of Congress to make the times of elections uniform in

all the States, will destroy the continuance of any cabal, as the whole body of Representatives will go out of office at once.

I come now, Sir, to consider that part of the Constitution which fixes the number of Representatives. It is first necessary for us to establish what the number of Representatives is to be. At present it only consists of sixty five: But let us consider, that it is only to continue at that number till the actual enumeration shall be made; which is to be within three years after the first meeting of Congress; and that the number of Representatives will be ascertained, and the proportion of taxes fixed within every subsequent term of ten years. Till this enumeration be made, Congress will have no power to lay direct taxes:—As there is no provision for this purpose, Congress cannot impose it; as direct taxation and representation are to be regulated by the enumeration there directed; therefore they have no power of laying direct taxes till the enumeration be actually made. I conceive no apportionment can be made before this enumeration, there being no certain data to go on. When the enumeration shall be made, what will be the consequence? I conceive there will be always one for every thirty thousand. Many reasons concur to lead me to this conclusion: By the Constitution, the allotment now made, will only continue till the enumeration be made; and as a new enumeration will take place every ten years, I take it for granted that the number of Representatives will be increased according to the progressive increase of population at every respective enumeration; and one for every thirty thousand will amount to one hundred Representatives, if we compute the number of inhabitants to be only three millions in the United States, which is a very moderate calculation. The first intention was only to have one for every forty thousand, which was afterwards estimated to be too few, and according to this proportion the present temporary number is fixed: But as it now stands, we readily see that the proportion of Representatives are sufficiently numerous to answer every purpose of Federal Legislation, and even soon to gratify those who wish for the greatest number.<sup>7</sup> I take it, that the number of Representatives will be proportioned to the highest number we are entitled to; and that it never will be less than one for every thirty thousand. I formed this conclusion from the situation of those who will be our Representatives. They are all chosen for two years; at the end of which term they are to depend on the people for their re-election: This dependance will lead them to a due and faithful discharge of their duty to their constituents: The augmentation of their number will conciliate the affections of the people at large; for the more the Representatives increase in number, the greater the influence of the people in the government, and the greater

the chance of re-election to the Representatives. But it has been said, that the Senate will not agree to any augmentation of the number of Representatives. The Constitution will entitle the House of Representatives to demand it. Would the Senate venture to stand out against them? I think they would not, Sir. Were they ready to recede from the evident sense of the Constitution, and grasp at power not thereby given them, they would be compelled to desist. But that I may not be charged with urging suppositions, let us see what ground this stands upon, and whether there be any real danger to be apprehended. The first objection that I shall consider is, that by paucity of numbers they will be more liable to depart from their duty, and more subject to influence: I apprehend that the fewer the number of Representatives, the freer the choice, and the greater the number of electors, the less liable to the unworthy arts of the candidates will they be; and thus their suffrage being free, will probably fall on men of the most merit. The practice of that country, which is situated more like America than any other country in the world, will justify this supposition. The British House of Commons consists, I believe, of five hundred and fifty-eight members—yet the far greater number of these are supposed to be under the undue influence of the Crown. A single fact from the English history illustrates these observations, viz: that there is scarcely an instance, for a century past, of the Crown's exercising its undoubted prerogative, of rejecting a bill sent up to it by the two Houses of Parliament:<sup>8</sup> It is no answer to say, that the King's influence is sufficient to prevent any obnoxious bills passing the two Houses: There are many instances in that period, not only of bills passing the two Houses, but even receiving the royal assent, contrary to the private wish and inclination of the Prince: It is objected, however, as a defect in the Constitution, that it does not prohibit the House of Representatives from giving their powers, particularly that respecting the support, &c. of armies, out of their hands for a longer term than two years. Here, I think, the enemies to the plan reason unfairly; they first suppose that Congress, from a love of power natural to all, will in general abuse that with which they are invested; and then they would make us apprehend that the House of Representatives, notwithstanding their love of power (and it must be supposed as great in a branch of Congress as in the whole) will give out of their hands the only check, which can ensure to them a continuance of the participation of the powers lodged in Congress in general: In England there is no restraint of this kind on the Parliament; and yet there is no instance of a mutiny bill being passed for a longer term than one year:<sup>9</sup> The proposed plan therefore, when it declares that no appropriation for the support of an army,

shall be made for a longer term than two years, introduces a check unknown to the English Constitution; and one which will be found very powerful when we reflect, that if the House of Representatives could be prevailed on to make an appropriation for an army for two years, at the end of that time there will be a new choice of Representatives. Thus I insist, that security does not depend on the number of Representatives: The experience of that country also shews, that many of their counties and cities contain a greater number of souls, than will be entitled to a representation in America, and yet the Representatives chosen in those places, have been the most strenuous advocates of liberty, and have exerted themselves in the defence of it, even in opposition to those chosen by much smaller numbers. Many of the Senatorial districts in Virginia also contain a greater number of souls, and yet I suppose no Gentleman within these walls will pay the Senators chosen by them, so poor a compliment as to attribute less wisdom and virtue to them than to the Delegates chosen from single counties; and as there is greater probability that the electors in a large district will be more independant, so I think the Representatives chosen in such districts will be more so too; for those who have sold themselves to their Representatives will have no right to complain, if they in their turn barter away their rights and liberties; but those who have not themselves been bought, will never consent to be sold. Another objection made to the small number of Representatives, is, that admitting they were sufficient to secure their integrity, yet they cannot be acquainted with the local situation and circumstances of their constituents: When we attend to the object of their jurisdiction we find this objection unsupportable. Congress will superintend the great national interests of the Union. Local concerns are left to the State Legislatures. When the members compare and communicate to one another their knowledge of their respective districts and States, their collective intelligence will sufficiently enable them to perform the objects of their cognizance. They cannot extend their influence or agency to any objects but those of a general nature; the Representatives will therefore be sufficiently acquainted with the interests of their States, although chosen by large districts: As long as the people remain virtuous and uncorrupted, so long we may fairly conclude will their Representatives, even at their present number, guard their interest(s), and discharge their duty with fidelity and zeal: When they become otherwise, no government can possibly secure their freedom.

I now consider the time of their continuance in office.—A short continuance in office, and a return of the officers to the mass of the people, there to depend solely on their former good conduct for their



re-election, is of the highest security to public liberty—let the power of the persons elected be what it may, they are only the trustees and not the masters of the people—yet the time ought not to be so short that they could not discharge their duty with ability. Considering this, two years are a short enough term in this case. Many will have a considerable distance to travel from the places of their abode, to the seat of the general government. They must take time to consider the situation of the Union, make themselves acquainted with the circumstances of our finances, and the relative situation(s) of, and our connections with, foreign nations, and a variety of other objects of importance. Would it not be the height of impolicy, that they should go out of their office, just at the time they began to know something of the nature of their duty? Were this the case the interest of their constituents could never be sufficiently attended to. Our Representatives for the State Legislature are chosen for one year, and it has never been thought too long a term. If one year be not too long to elect a State Representative, give me leave to say, that two years ought not to be considered as too long for the election of the members of the general Legislature. The objects of the former are narrow and limited to State and local affairs—the objects of the latter are co-extensive with the continent. In England, at the time they were most jealous of the prerogative of the King, triennial elections was their most ardent wish<sup>10</sup>—they would have thought themselves perfectly happy in this acquisition—nor did they think of a shorter term of elections. Let Gentlemen recollect that it is to septennial elections we owe our liberties. The elections were for seven years in most of the States before the late revolution.<sup>11</sup>

I now consider their weight and power, and whether they will be sufficient to give them, as the Representatives of the people, their due weight in the government. By the Constitution, they are one entire branch of the Legislature, without whose consent no law can be passed;—all money bills are to originate in their House;—they are to have the sole power of impeachment;—their consent is necessary to all acts or resolutions for the appropriation of the public money;—to all acts for laying and collecting duties, imposts, and excises;—for borrowing money on the credit of the United States;—for creating all officers and fixing their salaries;—for coining money;—for raising and supporting armies;—for raising and maintaining a navy;—and, for establishing rules for the government of the land and naval forces: These are the powers which will be fixed in the House of Representatives. Hence it appears our Representatives have more comparative power in the scale of government, than the Commons of England, and yet

in that country, the Commons possessing less powers, opposed with success much greater powers than our Representatives have to encounter. In that country the King is one entire branch of the Legislature, and an hereditary Monarch—can prorogue or dissolve, call or dismiss, the two Houses at his pleasure—besides his judicial influence, he is head of the church, fountain of honor, Generalissimo of the forces by sea and land, may raise what fleets and armies he pleases—is rendered personally sacred, by the constitutional maxim, that he can do no wrong—and besides several other great powers, has a grand revenue settled on him, sufficient to answer the ordinary ends of government; it being established as a custom, at the accession of every new King to settle such a revenue on him for life—and can increase the House of Lords at any time, and thereby extend his legislative influence. Notwithstanding the enormity of these powers it has been found, that the House of Commons, with powers greatly inferior to those of our Representatives, is a match for both the King and the Nobles. This superiority resulted from their having the power of granting or withholding supplies.—What will put this in a still clearer point of view is, that the House of Commons was not originally possessed of these powers: The history of the English Parliament will shew, that the great degree of power which they now possess, was acquired from beginnings so small that nothing but the innate weight of the power of the people, when lodged with their Representatives, could have effected it. In the reign of Edward the first, in the year 1295, the House of Commons were first called by legal authority: They were then confined to giving their assent barely to supplies to the Crown. In the reign of Edward the second, they first annexed petitions to the bills by which they granted subsidies. Under Edward the third, they declared they would not in future acknowledge any law to which they had not consented: In the same reign they impeached and brought to punishment, some of the Ministers of the Crown. Under Henry the fourth, they refused supplies until an answer had been given to their petitions;<sup>12</sup> and have increased their powers in succeeding reigns to such a degree, that they entirely controul the operation of government, even in those cases where the King's prerogative gave him nominally the sole direction. Let us here consider the causes to which this uncommon weight and influence may be assigned. The government being divided into branches, Executive, and Legislative, in all contests between them, the people have divided into the favorers of one or the other; from their dread of the Executive and affection to their Representatives, they have always sided with the Legislature: This has rendered the Legislature successful. The House of Commons have suc-

ceeded also by withholding supplies—they can by this power put a stop to the operations of government, which they have been able to direct as they pleased. This power has enabled them to triumph over all obstacles; it is so important, that it will in the end swallow up all others. Any branch of government that depends on the will of another for supplies of money, must be in a state of subordinate dependence, let it have what other powers it may. Our Representatives, in this case, will be perfectly independant, being vested with this power fully. Another source of superiority is the power of impeachment. In England very few Ministers have dared to bring on themselves an accusation by the Representatives of the people, by pursuing means contrary to their rights and liberties. Few Ministers will ever run the risk of being impeached, when they know the King cannot protect them by a pardon. This power must have much greater force in America, where the President himself is personally amenable for his mal-administration; the power of impeachment must be a sufficient check on the President's power of pardoning before conviction. I think we may fairly conclude, that if the House of Commons in England have been able to oppose with success a powerful hereditary Nobility, and an hereditary Monarch, with all the appendages of royalty, and immense powers and revenue; our Federal House of Representatives will be able to oppose with success, all attempts by a President only chosen for four years, by the people, with a small revenue and with limited powers, sufficient only for his own support; and a Senate chosen only for six years, one third of whom vacate their seats every two years, accountable to the State Legislatures, and have no separate interest from them or the people.

I now come to consider their responsibility to the people at large.—The probability of their consulting most scrupulously the interests of their constituents must be self-evident; this probability will result from their biennial elections, whether they wish to be re-elected or not: If they wish to be re-elected, they will know that on their good conduct alone, their re-election will depend. If they wish not to be re-elected, they will not enter into a fixed combination against the people, because they return to the mass of the people, where they will participate [in] the disadvantages of bad laws; by the publication of the yeas and nays, the votes of the individual members will be known; they will act therefore as if under the eyes of their constituents: The State Legislatures also will be a powerful check on them. Every new power given to Congress is taken from the State Legislatures, they will be therefore very watchful over them, for should they exercise any power not vested in them, it will be an usurpation of the rights of the different State

Legislatures, who would sound the alarm to the people. Upon such an appeal from the States to the people, nothing but the propriety of their conduct would ensure the Congress any chance of success: Should a struggle actually ensue, it would be uniform and universal; it would terminate to the disadvantage of the general Government, as Congress would be the object of the fears, and the State Legislature the object of the affection of the people: One hundred and sixty members chosen in this State Legislature, must on any dispute between Congress and the State Legislature, have more influence than ten members of Congress: One Representative to Congress will be chosen by eight or ten counties; his influence and chance of re-election will be very small when opposed by twenty men of the best interest in the district; when we add to this the influence of the whole body of State officers, I think I may venture to affirm, that every measure of Congress will be successfully opposed by the States. The experience of this State Legislature, hath fully satisfied me that this reasoning is just. The members of our Senate have never ventured to oppose any measure of the House of Delegates; and if they had, their chance of being re-elected, when opposed by the Delegates of the different counties, would be small. But what demonstrates that there is sufficient responsibility in the Representatives to the people, and what must satisfy the Committee, is this, that it will be their own interest to attend to that of the people at large. They can pass no law, but what will equally affect their own persons, their families, and property. This will be an additional influence to prevail with them to attend to their duty,—and more effectually watch and check the Executive. Their consequence as members will be another inducement. If they will individually signalize themselves in support of their constituents, and in curbing the usurpations of the Executive, it will best recommend them to the people, secure their re-election, and enhance their consequence. They, therefore, will become watchful guardians of the interest of the people. The Constitution has wisely interposed another check, to wit: that no person holding an office of trust or profit under the United States, shall be a member of either House during his continuance in office. No powers ought to be vested in the hands of any who are not Representatives of the people, and amenable to them. A review of the history of those countries with which I am acquainted, will shew that, for want of representation and responsibility, power has been exercised with an intention to advance the interest of a few, and not to remove the grievances of the many. At the time the Romans expelled their Kings, the Executive authority was given to Consuls, and the people did not gain by the change; for the plebian interest declined, while that of (the)

patricians rapidly advanced, till the oppressions of the latter caused the former to retire to the sacred mount; and even this struggle terminated only in the creation of the tribune of the people. Another struggle produced only the advantage of their admission to the consular dignity, and permission to intermarry into patrician families; so that in every succession on the side of the people, only produced a change in their tyrants. Under Louis the XIth in France, a war took place between the King and his Barons, (professedly) for the public good only; and they being successful, a treaty was made for the securing that public good; but it contained stipulations only in favor of a few Lords,—not a word in favor of the people.<sup>13</sup> But in England where the people had delegated all their powers to a few Representatives, all contests have terminated in favor of the people. One contest produced Magna Charta, containing stipulations for the good of the whole: This great charter was renewed, enlarged, and confirmed, by several succeeding Kings: The habeas corpus under Charles the II<sup>d</sup>,<sup>14</sup> and Declaration of Rights under William and Mary,—the latter limiting the prerogative of the Crown—the former establishing the personal liberty of the subject; were also in favor of the whole body of the people. Every revolution terminated differently in Rome and in England; in the first they only caused a change in their masters; in the second they ended in a confirmation of their liberties. The powerful influence of the people in gaining an extension of their liberties will appear more forcibly, and our confidence in our House of Representatives must be increased, when we come to consider the manner in which the House of Commons in England are elected: They consist of 558 members, 200 of whom are chosen by about 7000 freeholders in the counties, out of eight millions of people: The rest are chosen by towns, several of which, though small, elect five members, and even there are instances of two Representatives being chosen by one elector. The most baneful elections procure seats—one half of the candidates purchase them: Yet the people in England have ever prevailed, when they persisted in any particular purpose. If then, they have prevailed there, when opposed by two other powerful branches of the Legislature, and when elected so unduly, what may we not expect from our House of Representatives fairly chosen by the people. If the people there prevail with septennial elections, what may we not expect from our Representatives chosen only for two years, and who have only to encounter the feeble power of the President, and a Senate whose interest will lead them to do their duty. The opposers of this plan of Government dread the exercise of the most necessary, the most indispensable powers, and exercised by their own Representatives. Magna

Charta, and Declaration of Rights, only say that such powers shall not be exercised but with consent of Parliament; and experience has proved, that the making their consent necessary has sufficiently secured a proper exercise of those powers. The best writers also agree that such powers may always be lodged with Representatives. We have all the security which a people sensible and jealous of their liberties can wish for. Experience has evinced that mankind can trust those who have similar rights with themselves. Power lodged in the hands of Representatives, chosen as ours must be, cannot be abused. The truth of this cannot but strike every Gentleman in the Committee: And still the people can, when they please, change the government, being possessed of the supreme power.—Mr. *Nicholas* then quoted a passage from the celebrated Dr. *Price*,<sup>(6)</sup> who was so strenuous a friend to America, proving that as long as representation and responsibility existed in any country, liberty could not be endangered;<sup>15</sup>—and concluded, by saying, that he conceived the Constitution founded on the strictest principles of true policy and liberty, and that he was willing to trust his own happiness, and that of his posterity, to the operation of that system.

Mr. *Henry*—Mr. Chairman.—The public mind, as well as my own, is extremely uneasy at the proposed change of Government. Give me leave to form one of the number of those who wish to be thoroughly acquainted with the reasons of this perilous and uneasy situation—and why we are brought hither to decide on this great national question. I consider myself as the servant of the people of this Commonwealth, as a centinel over their rights, liberty, and happiness. I represent their feelings when I say, that they are exceedingly uneasy, being brought from that state of full security, which they enjoyed, to the present delusive appearance of things. A year ago the minds of our citizens were at perfect repose. Before the meeting of the late Federal Convention at Philadelphia, a general peace, and an universal tranquillity prevailed in this country;—but since that period they are exceedingly uneasy and disquieted. When I wished for an appointment to this Convention, my mind was extremely agitated for the situation of public affairs. I conceive the republic to be in extreme danger. If our situation be thus uneasy, whence has arisen this fearful jeopardy? It arises from this fatal system—it arises from a proposal to change our government:—A proposal that goes to the utter annihilation of the most solemn engagements of the States. A proposal of establishing 9 States into a confederacy, to the eventual exclusion of 4 States. It goes to the annihilation of those solemn treaties we have formed with foreign nations. The present circumstances of France—the good offices rendered us by

that kingdom, require our most faithful and most punctual adherence to our treaty with her. We are in alliance with the Spaniards, the Dutch, the Prussians: Those treaties bound us as thirteen States, confederated together—Yet, here is a proposal to sever that confederacy. Is it possible that we shall abandon all our treaties and national engagements?—And for what? I expected to have heard the reasons of an event so unexpected to my mind, and many others. Was our civil polity, or public justice, endangered or sapped? Was the real existence of the country threatened—or was this preceded by a mournful progression of events? This proposal of altering our Federal Government is of a most alarming nature: Make the best of this new Government—say it is composed by any thing but inspiration—you ought to be extremely cautious, watchful, jealous of your liberty; for instead of securing your rights you may lose them forever. If a wrong step be now made, the Republic may be lost forever. If this new Government will not come up to the expectation of the people, and they should be disappointed—their liberty will be lost, and tyranny must and will arise. I repeat it again, and I beg Gentlemen to consider, that a wrong step made now will plunge us into misery, and our Republic will be lost. It will be necessary for this Convention to have a faithful historical detail of the facts, that preceded the session of the Federal Convention, and the reasons that actuated its members in proposing an entire alteration of Government—and (to) demonstrate the dangers that awaited us: If they were of such awful magnitude, as to warrant a proposal so extremely perilous as this, I must assert, that this Convention has an absolute right to a thorough discovery of every circumstance relative to this great event. And here I would make this enquiry of those worthy characters who composed a part of the late Federal Convention. I am sure they were fully impressed with the necessity of forming a great consolidated Government, instead of a confederation. That this is a consolidated Government is demonstrably clear, and the danger of such a Government, is, to my mind, very striking. I have the highest veneration for those Gentlemen,—but, Sir, give me leave to demand, what right had they to say, *We, the People*. My political curiosity, exclusive of my anxious solicitude for the public welfare, leads me to ask, who authorised them to speak the language of, *We, the People*, instead of *We, the States*? States are the characteristics, and the soul of a confederation. If the States be not the agents of this compact, it must be one great consolidated National Government of the people of all the States. I have the highest respect for those Gentlemen who formed the Convention, and were some of them not here, I would express some testimonial of my esteem for them. America had on a

former occasion put the utmost confidence in them: A confidence which was well placed: And I am sure, Sir, I would give up any thing to them; I would cheerfully confide in them as my Representatives. But, Sir, on this great occasion, I would demand the cause of their conduct.—Even from that illustrious man [George Washington], who saved us by his valor, I would have a reason for his conduct—that liberty which he has given us by his valor, tells me to ask this reason,—and sure I am, were he here, he would give us that reason: But there are other Gentlemen here, who can give us this information. The people gave them no power to use their name. That they exceeded their power is perfectly clear. It is not mere curiosity that actuates me—I wish to hear the real actual existing danger, which should lead us to take those steps so dangerous in my conception. Disorders have arisen in other parts of America, but here, Sir, no dangers, no insurrection or tumult, has happened—every thing has been calm and tranquil. But notwithstanding this, we are wandering on the great ocean of human affairs. I see no landmark to guide us. We are running we know not whither. Difference in opinion has gone to a degree of inflammatory resentment in different parts of the country—which has been occasioned by this perilous innovation. The Federal Convention ought to have amended the old system—for this purpose they were solely delegated: The object of their mission extended to no other consideration. You must therefore forgive the solicitation of one unworthy member, to know what danger could have arisen under the present confederation, and what are the causes of this proposal to change our Government.

Governor *Randolph*—Mr. Chairman.—Had the most enlightened Statesman whom America has yet seen, foretold but a year ago, the crisis which has now called us together, he would have been confronted by the universal testimony of history: for never was it yet known, that in so short a space, by the peaceable working of events, without a war, or even the menace of the smallest force, a nation has been brought to agitate a question, an error in the issue of which, may blast their happiness. It is therefore to be feared, left to this trying exigency, the best wisdom should be unequal, and here, (if it were allowable to lament any ordinance of nature) might it be deplored, that in proportion to the magnitude of a subject, is the mind intemperate. Religion, the dearest of all interests, has too often sought proselytes by fire, rather than by reason; and politics, the next in rank, are too often nourished by passion, at the expence of the understanding.—Pardon me, however, for expecting one exception to this tendency of mankind—From the dignity of this Convention, a mutual toleration, and



a persuasion that no man has a right to impose his opinion on others. Pardon me too, Sir, if I am particularly sanguine in my expectations from the chair—It well knows what is order, how to command obedience, and that political opinions may be as honest on one side as on the other. Before I press into the body of the argument, I must take the liberty of mentioning the part I have already borne in this great question: But let me not here be misunderstood. I come not to apologize to any individual within these walls, to the Convention as a body, or even to my fellow citizens at large—Having obeyed the impulse of duty, having satisfied my conscience, and I trust, my God, I shall appeal to no other tribunal; nor do I come a candidate for popularity: My manner of life, has never yet betrayed such a desire. The highest honors and emoluments of this Commonwealth, are a poor compensation for the surrender of personal independence. The history of England, from the revolution, and that of Virginia, for more than twenty years past, shew the vanity of a hope, that general favor should ever follow the man, who without partiality or prejudice, praises or disapproves the opinions of friends or of foes: Nay, I might enlarge the field, and declare from the great volume of human nature itself, that to be moderate in politics, forbids an ascent to the summit of political fame. But I come hither regardless of allurements; to continue as I have begun, to repeat my earnest endeavours for a firm energetic government, to enforce my objections to the Constitution, and to concur in any practical scheme of amendments; but I never will assent to any scheme that will operate a dissolution of the Union, or any measure which may lead to it. This conduct may possibly be upbraided as injurious to my own views; if it be so, it is at least, the natural offspring of my judgment. I refused to sign, and if the same were to return, again would I refuse. Wholly to adopt or wholly to reject, as proposed by the Convention, seemed too hard an alternative to the citizens of America, whose servants we were, and whose pretensions amply to discuss the means of their happiness, were undeniable. Even if adopted under the terror of impending anarchy, the government must have been without that safest bulwark, the hearts of the people—and if rejected because the chance for amendments was cut off, the Union would have been irredeemably lost. This seems to have been verified by the event in Massachusetts;<sup>16</sup> but our Assembly have removed these inconveniences, by propounding the Constitution to our full and free enquiry. When I withheld my subscription, I had not even a glimpse of the genius of America, relative to the principles of the new Constitution. Who, arguing from the preceding history of Virginia, could have divined that she was prepared for the important change? In

former times indeed, she transcended every Colony in professions and practices of loyalty; but she opened a perilous war, under a democracy almost as pure as representation would admit: She supported it under a Constitution which subjects all rule, authority and power, to the Legislature: Every attempt to alter it had been baffled: The increase of Congressional power, had always excited an alarm. I therefore would not bind myself to uphold the new Constitution, before I had tried it by the true touchstone; especially too, when I foresaw, that even the members of the General Convention, might be instructed by the comments of those who were without doors. But I had moreover objections to the Constitution, the most material of which, too lengthily in the detail, I have as yet but barely stated to the public,<sup>17</sup> but shall explain when we arrive at the proper point(s). Amendments were consequently my wish; these were the grounds of my repugnance to subscribe, and were perfectly reconcilable with my unalterable resolution, to be regulated by the spirit of America, if after our best efforts for amendments they could not be removed. I freely indulge those who may think this declaration too candid, in believing, that I hereby depart from the concealment belonging to the character of a Statesman. Their censure would be more reasonable, were it not for an unquestionable fact, that the spirit of America depends upon a combination of circumstances, which no individual can controul, and arises not from the prospect of advantages which may be gained by the arts of negociation, but from deeper and more honest causes.

As with me the only question has ever been, between previous, and subsequent amendments, so will I express my apprehensions, that the postponement of this Convention, to so late a day, has extinguished the probability of the former without inevitable ruin to the Union, and the Union is the anchor of our political salvation; and I will assent to the lopping of this limb (meaning his arm) before I assent to the dissolution of the Union.—I shall now follow the Honorable Gentleman (Mr. *Henry*) in his enquiry. Before the meeting of the Federal Convention, says the Honorable Gentleman, we rested in peace; a miracle it was, that we were so: Miraculous must it appear to those who consider the distresses of the war, and the no less afflicting calamities, which we suffered in the succeeding peace;—be so good as to recollect how we fared under the confederation. I am ready to pour forth sentiments of the fullest gratitude to those Gentlemen who framed that system. I believe they had the most enlightened heads in this western hemisphere:—Notwithstanding their intelligence, and earnest solicitude, for the good of their country, this system has proved totally inadequate to the purpose, for which it was devised: But, Sir, this was

no disgrace to them; the subject of confederations was then new, and the necessity of speedily forming some government for the States, to defend them against the pressing dangers, prevented, perhaps, those able Statesmen from making that system as perfect as more leisure and deliberation might have enabled them to do: I cannot otherwise conceive how they could have formed a system, that provided no means of enforcing the powers which were nominally given it. Was it not a political farce, to pretend to vest powers, without accompanying them with the means of putting them in execution? This want of energy was not a greater solecism than the blending together, and vesting in one body, all the branches of Government. The utter inefficacy of this system was discovered the moment the danger was over, by the introduction of peace: The accumulated public misfortunes that resulted from its inefficacy, rendered an alteration necessary; this necessity was obvious to all America: Attempts have accordingly been made for this purpose. I have been a witness to this business from its earliest beginning. I was honored with a seat in the small Convention held at Annapolis. The members of that Convention thought unanimously, that the controul of commerce should be given to Congress, and recommended to their States to extend the improvement to the whole system. The members of the General Convention were particularly deputed to meliorate the confederation. On a thorough contemplation of the subject, they found it impossible to amend that system: What was to be done? The dangers of America, which will be shewn at another time by a particular enumeration, suggested the expedient of forming a new plan: The confederation has done a great deal for us, we all allow, but it was the danger of a powerful enemy, and the spirit of America, Sir, and not any energy in that system that carried us through that perilous war: For what were its best arms? The greatest exertions were made, when the danger was most imminent. This system was not signed till March, 1781, Maryland having not acceded to it before; yet the military achievements and other exertions of America, previous to that period, were as brilliant, effectual, and successful, as they could have been under the most energetic Government. This clearly shews, that our perilous situation was the cement of our Union—How different the scene when this peril vanished, and peace was restored! The demands of Congress were treated with neglect. One State complained that another had not paid its quotas as well as itself. Public credit gone—for I believe were it not for the private credit of individuals we should have been ruined long before that time. Commerce languishing—produce falling in value, and justice trampled under foot. We became contemptible in the eyes of foreign nations; they

discarded us as little wanton bees who had played for liberty, but who had not sufficient solidity or wisdom to secure it on a permanent basis, and were therefore unworthy of their regard. It was found that Congress could not even enforce the observance of treaties. That treaty under which we enjoy our present tranquillity was disregarded. Making no difference between the justice of paying debts due to people here, and that of paying those due to people on the other side of the Atlantic. I wished to see the treaty complied with, by the payment of the British debts, but have not been able to know why it has been neglected. What was the reply to the demands and requisitions of Congress? You are too contemptible, we will despise and disregard you. I shall endeavor to satisfy the Gentleman's [Patrick Henry] political curiosity. Did not our compliance with any demand of Congress depend on our own free will?—If we refused, I know of no coercive force to compel a compliance:—After meeting in Convention, the deputies from the States communicated their information to one another: On a review of our critical situation, and of the impossibility of introducing any degree of improvement into the old system; what ought they to have done? Would it not have been treason to return without proposing some scheme to relieve their distressed country? The Honorable Gentleman asks, why we should adopt a system, that shall annihilate and destroy our treaties with France, and other nations? I think, the misfortune is, that these treaties are violated already, under the Honorable Gentleman's favorite system. I conceive that our engagements with foreign nations are not at all affected by this system, for the sixth article expressly provides, that "all debts contracted, and engagements entered into, before the adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation." Does this system then, cancel debts due to or from the continent? Is it not a well known maxim that no change of situation can alter an obligation once rightly entered into? He also objects because nine States are sufficient to put the Government in motion: What number of States ought we to have said? Ought we to have required, the concurrence of all the thirteen? Rhode-Island, in rebellion against integrity; Rhode-Island plundering all the world by her paper money, and notorious for her uniform opposition to every federal duty, would then have it in her power to defeat the Union; and may we not judge with absolute certainty from her past conduct, that she would do so?<sup>18</sup> Therefore, to have required the ratification of all the thirteen States would have been tantamount to returning without having done any thing. What other number would have been proper? Twelve? The same spirit that has actuated me in the whole progress of the business, would

have prevented me from leaving it in the power of any one State to dissolve the Union: For would it not be lamentable, that nothing could be done for the defection of one State? A majority of the whole would have been too few. Nine States therefore seem to be a most proper number. The Gentleman then proceeds, and inquires, why we assumed the language of "We, the People." I ask why not? The Government is for the people; and the misfortune was, that the people had no agency in the Government before. The Congress had (no) power to make peace and war, under the old Confederation. Granting passports, by the law of nations, is annexed to this power; yet Congress was reduced to the humiliating condition of being obliged to send deputies to Virginia to solicit a passport. Notwithstanding the exclusive power of war, given to Congress, the second article of the Confederation was interpreted to forbid that body to grant a passport for tobacco; which during the war, and in pursuance of engagements made at little York, was to have been sent into New-York.<sup>19</sup> What harm is there in consulting the people, on the construction of a Government by which they are to be bound? Is it unfair? Is it unjust? If the Government is to be binding on the people, are not the people the proper persons to examine its merits or defects? I take this to be one of the least and most trivial objections that will be made to the Constitution—it carries the answer with itself. In the whole of this business, I have acted in the strictest obedience to the dictates of my conscience, in discharging what I conceive to be my duty to my country. I refused my signature, and if the same reasons operated on my mind, I would still refuse; but as I think that those eight States which have adopted the Constitution will not recede, I am a friend to the Union.

Mr. *George Mason*.—Mr. Chairman—Whether the Constitution be good or bad, the present clause clearly discovers, that it is a National Government, and no longer a confederation. I mean that clause which gives the first hint of the General Government laying direct taxes. The assumption of this power of laying direct taxes, does of itself, entirely change the confederation of the States into one consolidated Government. This power being at discretion, unconfined, and without any kind of controul, must carry every thing before it. The very idea of converting what was formerly a confederation, to a consolidated Government, is totally subversive of every principle which has hitherto governed us. This power is calculated to annihilate totally the State Governments. Will the people of this great community submit to be individually taxed by two different and distinct powers? Will they suffer themselves to be doubly harrassed? These two concurrent powers cannot exist long together; the one will destroy the other: The General

Government being paramount to, and in every respect more powerful than, the State governments, the latter must give way to the former. Is it to be supposed that one National Government will suit so extensive a country, embracing so many climates, and containing inhabitants so very different in manners, habits, and customs? It is ascertained by history, that there never was a Government, over a very extensive country, without destroying the liberties of the people: History also, supported by the opinions of the best writers, shew us, that monarchy may suit a large territory, and despotic Governments ever so extensive a country; but that popular Governments can only exist in small territories. Is there a single example, on the face of the earth, to support a contrary opinion? Where is there one exception to this general rule? Was there ever an instance of a general National Government extending over so extensive a country, abounding in such a variety of climates, &c. where the people retained their liberty? I solemnly declare, that no man is a greater friend to a firm Union of the American States than I am: But, Sir, if this great end can be obtained without hazarding the rights of the people, why should we recur to such dangerous principles? Requisitions have been often refused, sometimes from an impossibility of complying with them; often from that great variety of circumstances which retard the collection of monies, and, perhaps, sometimes from a wilful design of procrastinating. But why shall we give up to the National Government this power, so dangerous in its nature, and for which its members will not have sufficient information?—Is it not well known, that what would be a proper tax in one State would be grievous in another? The Gentleman [George Nicholas] who hath favored us with an eulogium in favor of this system, must, after all the encomiums he has been pleased to bestow upon it, acknowledge, that our Federal Representatives must be unacquainted with the situation of their constituents: Sixty-five members cannot possibly know the situation and circumstances of all the inhabitants of this immense continent: When a certain sum comes to be taxed, and the mode of levying to be fixed, they will lay the tax on that article which will be most productive, and easiest in the collection, without consulting the real circumstances or convenience of a country, with which, in fact, they cannot be sufficiently acquainted. The mode of levying taxes is of the utmost consequence, and yet here it is to be determined by those who have neither knowledge of our situation, nor a common interest with us, nor a fellow feeling for us:—The subjects of taxation differ in three-fourths; nay, I might say with truth, in four-fifths of the States:—If we trust the National Government with an effectual way of raising the necessary sums, 'tis sufficient; every thing we do further

is trusting the happiness and rights of the people: Why then should we give up this dangerous power of individual taxation? Why leave the manner of laying taxes to those, who in the nature of things, cannot be acquainted with the situation of those on whom they are to impose them, when it can be done by those who are well acquainted with it? If instead of giving this oppressive power, we give them such an effectual alternative as will answer the purpose, without encountering the evil and danger that might arise from it, then I would cheerfully acquiesce: And would it not be far more eligible? I candidly acknowledge the inefficacy of the confederation; but requisitions have been made, which were impossible to be complied with: Requisitions for more gold and silver than were in the United States: If we give the General Government the power of demanding their quotas of the States, with an alternative of laying direct taxes, in case of non compliance, then the mischief would be avoided; and the certainty of this conditional power would, in all human probability, prevent the application, and the sums necessary for the Union would be then laid by the States; by those who know how it can best be raised; by those who have a fellow-feeling for us. Give me leave to say, that the same sum raised one way with convenience and ease, would be very oppressive another way: Why then not leave this power to be exercised by those who know the mode most convenient for the inhabitants, and not by those who must necessarily apportion it in such manner as shall be oppressive? With respect to the representation so much applauded, I cannot think it such a full and free one as it is represented; but I must candidly acknowledge, that this defect results from the very nature of the Government. It would be impossible to have a full and adequate representation in the General Government; it would be too expensive and too unweildy: We are then under the necessity of having this a very inadequate representation: Is this general representation to be compared with the real, actual, substantial representation of the State Legislatures? It cannot bear a comparison. To make representation real and actual, the number of Representatives ought to be adequate; they ought to mix with the people, think as they think, feel as they feel, ought to be perfectly amenable to them, and thoroughly acquainted with their interest and condition: Now these great ingredients are, either not at all, or in so small a degree, to be found in our Federal Representatives, that we have no real, actual, substantial representation; but I acknowledge it results from the nature of the Government: The necessity of this inconvenience may appear a sufficient reason not to argue against it: But, Sir, it clearly shews, that we ought to give power with a sparing hand to a Government thus imperfectly

constructed. To a Government, which, in the nature of things, cannot but be defective, no powers ought to be given, but such as are absolutely necessary: There is one thing in it which I conceive to be extremely dangerous. Gentlemen may talk of public virtue and confidence; we shall be told that the House of Representatives will consist of the most virtuous men on the Continent, and that in their hands we may trust our dearest rights. This, like all other assemblies, will be composed of some bad and some good men; and considering the natural lust of power so inherent in man, I fear the thirst of power will prevail to oppress the people:—What I conceive to be so dangerous, is the provision with respect to the number of Representatives: It does not expressly provide, that we shall have one for every 30,000, but that the number shall not exceed that proportion: The utmost that we can expect (and perhaps that is too much) is, that the present number shall be continued to us:—“The number of Representatives shall not exceed one for every 30,000.” Now will not this be complied with, although the present number should never be increased; nay, although it should be decreased? Suppose Congress should say, that we should have one for every 200,000, will not the Constitution be complied with? For one for every 200,000 does not exceed one for every 30,000. There is a want of proportion that ought to be strictly guarded against: The worthy Gentleman [George Nicholas] tells us, we have no reason to fear; but I always fear for the rights of the people: I do not pretend to inspiration, but I think, it is apparent as the day, that the members will attend to local partial interests to prevent an augmentation of their number: I know not how they will be chosen, but whatever be the mode of choosing, our present number is but ten: And suppose our State is laid off in ten districts; those Gentlemen who shall be sent from those districts will lessen their own power and influence, in their respective districts, if they increase their number; for the greater the number of men among whom any given quantum of power is divided, the less the power of each individual. Thus they will have a local interest to prevent the increase of, and perhaps they will lessen their own number: This is evident on the face of the Constitution—so loose an expression ought to be guarded against; for Congress will be clearly within the requisition of the Constitution, although the number of Representatives should always continue what it is now, and the population of the country should increase to an immense number. Nay, they may reduce the number from 65, to one from each State, without violating the Constitution; and thus the number which is now too small, would then be infinitely too much so: But my principal objection is, that the confederation is converted to one general consolidated Gov-



ernment, which, from my best judgment of it (and which perhaps will be shewn in the course of this discussion, to be really well founded) is one of the worst curses that can possibly befall a nation. Does any man suppose, that one general National Government can exist in so extensive a country as this? I hope that a Government may be framed which may suit us, by drawing the line between the general and State Governments, and prevent that dangerous clashing of interest and power, which must, as it now stands, terminate in the destruction of one or the other. When we come to the Judiciary, we shall be more convinced, that this Government will terminate in the annihilation of the State Governments: The question then will be, whether a consolidated Government can preserve the freedom, and secure the great rights of the people.

If such amendments be introduced as shall exclude danger, I shall most gladly put my hand to it. When such amendments, as shall, from the best information, secure the great essential rights of the people, shall be agreed to by Gentlemen, I shall most heartily make the greatest concessions, and concur in any reasonable measure to obtain the desirable end of conciliation and unanimity. An indispensable amendment in this case, is, that Congress shall not exercise the power of raising direct taxes till the States shall have refused to comply with the requisitions of Congress. On this condition it may be granted, but I see no reason to grant it unconditionally; as the States can raise the taxes with more ease, and lay them on the inhabitants with more propriety, than it is possible for the General Government to do. If Congress hath this power without controul, the taxes will be laid by those who have no fellow-feeling or acquaintance with the people. This is my objection to the article now under consideration. It is a very great and important one. I therefore beg Gentlemen seriously to consider it. Should this power be restrained, I shall withdraw my objections to this part of the Constitution: But as it stands, it is an objection so strong in my mind, that its amendment is with me, a *sine qua non*, of its adoption. I wish for such amendments, and such only, as are necessary to secure the dearest rights of the people.

Mr. *Madison*.—Mr. Chairman—It would give me great pleasure to concur with my honorable colleague in any conciliatory plan. The clause to which the worthy member alludes, is only explanatory of the proportion which representation and taxation shall respectively bear to one another: The power of laying direct taxes will be more properly discussed, when we come to that part of the Constitution which vests that power in Congress. At present I must endeavour to reconcile our proceedings to the resolution we have taken, by postponing the ex-

amination of this power till we come properly to it. With respect to converting the confederation to a complete consolidation, I think no such consequence will follow from the Constitution; and that with more attention he will see that he is mistaken: And with respect to the number of Representatives, I reconcile it to my mind, when I consider, that it may be increased to the proportion fixed; and that as it may be so increased, it shall, because it is the interest of those who alone can prevent it, who are our Representatives, and who depend on their good behaviour for their re-election. Let me observe also, that as far as the number of Representatives may seem to be inadequate to discharge their duty; they will have sufficient information from the laws of particular States, from the State Legislatures, from their own experience, and from a great number of individuals: And as to our security against them, I conceive, Sir, that the general limitation of their powers, and the general watchfulness of the States, will be a sufficient guard. As it is now late, I shall defer any further investigation till (a) more convenient time.

The Committee then rose—And on motion, *Resolved*, That this Convention will, to-morrow, again resolve itself into a Committee of the whole Convention, to take into farther consideration, the proposed Constitution of Government.

And then the Convention adjourned until to-morrow morning, eleven o'clock.

(a) *Observations on Civil Liberty.*

1. This day's minutes were printed in the *Virginia Independent Chronicle* on 11 June (Mfm:Va.) and an excerpt appeared in the *Norfolk and Portsmouth Journal* on the 18th.

2. For the report of the Committee of Privileges and Elections on the disputed election in Louisa County, see *Convention Debates*, 7 June (RCS:Va., 1006-07). For more on this disputed election, see *Louisa County Election* (II above).

3. For the manuscript version of this report, see Mfm:Va.

4. For the manuscript version of this report, see Mfm:Va.

5. For Anderson's petition, see *Cumberland County Election* (II above).

6. For the legislation providing for the appointment of delegates to the Annapolis and Constitutional conventions, see RCS:Va., 538-42.

7. On 17 September 1787, after the engrossed Constitution was read in the Constitutional Convention, Nathaniel Gorham of Massachusetts moved that the number of U.S. Representatives not exceed one for every 30,000 inhabitants instead of one for every 40,000, as provided in the Constitution. George Washington, in his only recorded speech, supported Gorham's motion which was unanimously adopted (Farrand, II, 643-44). News of this change was reported in the *Pennsylvania Herald* on 7 November and was widely reprinted in newspapers (CC:233-B). The *Herald's* report emphasized Washington's role and omitted any reference to Gorham.

Commenting on this change in his objections, George Mason said: "This Objection has been in some Degree lessened by an Amendment, often before refused, and at last made by an Erasure, after the Engrossment upon Parchment, of the word *forty*, and inserting *thirty* . . ." (RCS:Va., 46).

8. No English monarch had vetoed a bill since Queen Anne had refused her assent to the Scotch Militia Bill in 1707.

9. For the passage of an annual mutiny act, see "Cassius" III, 23 April, note 3 (III above).

10. Parliaments, according to "the laws and statutes" of the realm, were to meet annually. In 1640, however, after an eleven-year hiatus, Charles I summoned a new Parliament. As one of its first actions, Parliament passed the Triennial Act of 1641, which stipulated that a new Parliament should be elected at least once every third year even if the king refused to call it. Considered a derogation of the royal prerogative, the act was repealed in 1664 during the reign of Charles II by the "Pensionary Parliament" that lasted for almost eighteen years. The act of repeal provided that Parliament be elected at least every third year but made no provision for summoning Parliament without the king's call. In 1689 the Bill of Rights declared that "parliaments ought to be held frequently." Five years later, during the reign of William and Mary, another triennial act stipulated that Parliament should be elected at least once every three years and that no Parliament should continue for more than three years. This act was superseded by the Septennial Act of 1716, which provided that no Parliament could continue longer than seven years.

11. Using the Triennial Act of 1694 and the Septennial Act of 1716 as models, several royal colonies passed similar acts, but imperial officials, especially in the late colonial period, would not permit royal governors to assent to such laws. For example, in 1762 the Virginia House of Burgesses passed an act requiring that it meet at least once every three years and that the duration of a legislature should not exceed seven years (Hening, VII, 517-30). Imperial authorities did not confirm the act, and in 1769 the House passed a similar measure which was rejected (Hening, VIII, 305-17).

12. For an account of these events, not always described accurately by Nicholas, see Theodore F. T. Plucknett, *Taswell-Langmead's English Constitutional History From the Teutonic Conquest to the Present Time* (11th ed., London, 1960), 141-42, 155-65, 186-88.

13. In 1465 portions of the bourgeoisie and the clergy and some officeholders united with the great nobles in the League of the Public Weal against Louis XI. The League wanted to strip Louis of his power, to end the royal government's oppression of the Church and nobles, and to lighten the tax burden on the poor. In July Louis' army failed to defeat that of the League, and in October he was forced to negotiate peace.

14. This act, entitled "An Act for the better securing the Liberty of the Subject and for Prevention of Imprisonments beyond the Seas," was passed in 1679 (after nine years of trying) to rectify abuses of the royal government of Charles II. A person accused of a crime (treason and a few other serious crimes excepted) had the right to the writ of habeas corpus; judges and jailers who violated the act were subject to heavy penalties; no accused individual could be imprisoned out of the realm; and the right to a speedy trial was guaranteed to those accused of treason or other serious crimes.

15. Nicholas probably quoted this passage from Richard Price's *Observations on the Nature of Civil Liberty* . . . (Philadelphia, 1776) (Evans 15031), 8: "If the persons to whom the trust of government is committed hold their places for short terms; if they are chosen by the unbiassed voices of a majority of the state, and subject to their instructions; Liberty will be enjoyed in its highest degree." *Observations* was first printed in London the same year.

16. Randolph refers to the recommendatory amendments of the Massachusetts Convention adopted in February (CC:508).

17. Randolph's objections to the Constitution were outlined in his 10 October 1787 letter to the Speaker of the House of Delegates that was printed as a pamphlet by 27 December (RCS:Va., 260-75). See also "George Mason and Edmund Randolph in the Constitutional Convention," 12-15 September (RCS:Va., 10-11).

18. Because it had been the only state to reject the Impost of 1781 (Virginia and New York subsequently rescinded their ratifications), Rhode Island, the smallest state,

became an example of how a single state could thwart the will of the twelve other states. Its paper-money laws, adopted in 1786, were widely criticized as attacks upon property rights. Rhode Island, however, did adopt two federal measures—the Impost of 1783 and the 1784 grant of commercial power to Congress.

19. After Yorktown, the Articles of Capitulation stipulated that British traders could sell and remove their property. Having done so, these merchants applied for permission to export the proceeds of these sales in the form of tobacco. On 11 February 1782, Congress authorized its Secretary, Charles Thomson, to issue passports permitting the merchants to export tobacco from Virginia. Thomson and Superintendent of Finance Robert Morris entered into a contract with the merchants, and Thomson issued the passports. When the vessels arrived in Virginia, Governor Benjamin Harrison refused to recognize the passports, ordered the vessels to anchor in Hampton Roads, and referred the matter to Attorney General Edmund Randolph and the state legislature.

On 20 May 1782, the House of Delegates adopted five resolutions protesting the passports. Some delegates argued that, under the Articles of Confederation, only the states, not Congress, had the power to issue passports. Randolph disagreed. He told the legislature that Congress could grant passports under its war, peace, and military powers.

The resolutions were sent to Robert Morris who forwarded them to Congress. On 29 May, Congress resolved that the Virginia resolutions were “founded on misapprehension,” and it authorized that two of its delegates travel to Virginia “to make such representations” “as may remove every obstacle to the execution of this measure.” On the 30th, Congress softened its position by authorizing the two delegates “to make such explanations” to Virginia “as they shall judge expedient” (JCC, XXII, 70–71, 309–10, 311; Hutchinson, *Madison*, IV, 245n, 263–64, 266n–67n; and Ferguson, *Morris*, V, 273, 274n).

In the meantime, the Senate had amended the House’s resolutions, removing much of their force. In mid-June, both houses asked the governor “to give necessary assistance for carrying the views of congress and their financier into due effect” (Hutchinson, *Madison*, IV, 305, 340n–41n).

## The Virginia Convention Thursday 5 June 1788

### Debates<sup>1</sup>

Mr. *Harrison* reported from the Committee of Privileges and Elections, that the Committee had, according to order, had under their consideration, the petition of Samuel Anderson<sup>2</sup> to them referred, and had come to a resolution thereupon, which he read in his place, and afterwards delivered in at the Clerk’s table, where the same was again twice read, and agreed to by the House, as followeth:

*Resolved, That it is the opinion of this Committee, That the petition of the said Samuel Anderson, praying that the election of Mr. Thomas H. Drew, a member returned to serve in this Convention for the county of Cumberland, may be set aside and a new election had to supply his place, be rejected.*<sup>3</sup>

Mr. *Harrison* reported from the Committee of Privileges and Elections, that the Committee had, according to order, examined the return of the election of Delegates to serve in this Convention for the county of Westmoreland, and had come to a resolution thereupon, which he read in his place, and afterwards delivered in at the Clerk's table, where the same was again twice read, and agreed to by the House, as followeth:

*Resolved, That it is the opinion of this Committee, That the return of the election of Delegates to serve in this Convention, for the said county of Westmoreland, is satisfactory.*<sup>4</sup>

The Convention, according to the order of the day, resolved itself into a Committee of the whole Convention, to take into farther consideration, the proposed plan of Government.—Mr. *Wythe* in the Chair.

(The first and second sections still under consideration.)

Mr. *Pendleton*.—Mr. Chairman—My worthy friend (Mr. Henry) has expressed great uneasiness in his own mind, and informed us, that a great many of our citizens are also extremely uneasy, at the proposal of changing our government: But that a year ago, before this fatal system was thought of, the public mind was at perfect repose. It is necessary to inquire, whether the public mind was at ease on the subject, and if it be since disturbed: What was the cause; what was the situation of this country, before the meeting of the Federal Convention? Our General Government was totally inadequate to the purpose of its institution; our commerce decayed; our finances deranged; public and private credit destroyed: These, and many other national evils, rendered necessary the meeting of that Convention. If the public mind was then at ease, it did not result from a conviction of being in a happy and easy situation: It must have been an inactive unaccountable stupor. The Federal Convention devised the paper on your table, as a remedy to remove our political diseases. What has created the public uneasiness since? Not public reports, which are not to be depended upon; but mistaken apprehensions of danger, drawn from observations on governments which do not apply to us. When we come to inquire into the origin of most Governments of the world, we shall find, that they are generally dictated by a conqueror at the point of the sword, or, are the offspring of confusion, when a great popular leader taking advantage of circumstances, if not producing them, restores order at the expence of liberty, and becomes the tyrant over the people. It may well be supposed, that in forming a Government of this sort, it will not be favourable to liberty: The conqueror will take care of his own emoluments, and have little concern for the interest of the people. In either case, the interest and ambition of the despot, and not the good

of the people, have given the tone to the Government. A Government thus formed, must necessarily create a continual war between the governors and governed. Writers consider the two parties (the people and tyrants) as in a state of perpetual warfare, and sounded the alarm to the people. But what is our case? We are perfectly free from sedition and war: We are not yet in confusion: We are left to consider our real happiness and security: We want to secure these objects: We know they cannot be attained without Government. Is there a single man in this Committee of a contrary opinion? What was it that brought us from a state of nature to society, but to secure happiness? And can society be formed without Government? Personify Government: Apply to it as a friend to assist you, and it will grant your request. This is the only Government founded in real compact. There is no quarrel between Government and liberty; the former is the shield and protector of the latter. The war is between Government and licentiousness, faction, turbulence, and other violations of the rules of society; to preserve liberty. Where is the cause of alarm? We, the people, possessing all power, form a Government, such as we think will secure happiness: And suppose in adopting this plan we should be mistaken in the end; where is the cause of alarm on that quarter? In the same plan we point out an easy and quiet method of reforming what may be found amiss. No but, say Gentlemen, we have put the introduction of that method in the hands of our servants; who will interrupt it from motives of self-interest. What then?—We will resist—did my friend say, conveying an idea of force? Who shall dare to resist the people? No,—we will assemble in Convention; wholly recall our delegated powers, or reform them so as to prevent such abuse; and punish those servants, who have perverted powers designed for our happiness, to their own emolument. We ought to be extremely cautious not to be drawn into dispute with regular Government, by faction and turbulence, its natural enemies. Here then, Sir, there is no cause of alarm on this side; but on the other side, rejecting of Government and dissolving of the Union, produce confusion and despotism.

But an objection is made to the form: The expression *We, the people*, is thought improper. Permit me to ask the Gentleman [Patrick Henry], who made this objection, who but the people can delegate powers? Who but the people have a right to form Government? The expression is a common one, and a favorite one with me: The Representatives of the people, by their authority, is a mode wholly inessential. If objection be, that the Union ought to be not of the people, but of the State Governments, then I think the choice of the former, very happy and proper. What have (the) State Governments to do with it? Were they

to determine, the people would not, in that case, be the judges upon what terms it was adopted.

But the power of the Convention is doubted. What is the power? To propose—not to determine. This power of proposing was very broad; it extended to remove all the defects in government: The members of that Convention were to consider all the defects in our General Government: Were not confined to any particular plan. Were they deceived? This is the proper question here. Suppose the paper on your table dropt from one of the planets;—the people found it, and sent us here to consider whether it was proper for their adoption: Must we not obey them? Then the question must be, between this Government and the Confederation: The latter is no Government at all. It has been said that it has carried us through a dangerous war to a happy issue. Not that Confederation, but common danger and the spirit of America, were the bonds of our Union: Union and unanimity, and not that insignificant paper, carried us through that dangerous war. “United, we stand—divided, we fall,” echoed and re-echoed through America, from Congress to the drunken carpenter; was effectual, and procured the end of our wishes: Though now forgot by Gentlemen, if such there be, who incline to let go this strong hold, to catch at feathers, for such, all substituted projects may prove.

This spirit had nearly reached the end of its power when relieved by peace: It was the spirit of America, and not the confederation, that carried us through the war: Thus I prove it; the moment of peace shewed the imbecility of the Federal Government: Congress was impowered to make war and peace; a peace they made, giving us the great object independence, and yeilding us a territory that exceeded my most sanguine expectations; unfortunately a single disagreeable clause, not the object of the war, has retarded the performance of the treaty on our part. Congress could only recommend its performance, not enforce it: Our last Assembly (to their honor be it said) put this on its proper ground;—on honorable grounds;—it was as much as they ought to have done:<sup>5</sup> This single instance shews the imbecility of the confederation: The debts contracted by the war were unpaid; demands were made on Congress: All that Congress was able to do, was to make an estimate of the debt, and proportion it among the several States:—They sent on the requisitions from time to time, to the States, for their respective quotas: These were either complied with partially, or not at all: Repeated demands on Congress distressed that honorable body, but they were unable to fulfil those engagements which they so earnestly wished: What was the idea of other nations respecting America? What was the idea entertained of us by those nations to whom

we were so much indebted? The inefficacy of the General Government, warranted an idea, that we had no Government at all. Improvements were proposed, and agreed to by twelve States, but were interrupted, because the little State of Rhode-Island refused to accede to them:<sup>6</sup> This was a further proof of the imbecility of that Government: Need I multiply instances to shew that it is wholly ineffectual for the purposes of its institution: Its whole progress since the peace proves it. Shall we, then, Sir, continue under such a Government, or shall we introduce that kind of Government which shall produce the real happiness and security of the people? When Gentlemen say, that we ought not to introduce this new Government, but strengthen the hands of Congress, they ought to be explicit: In what manner shall this be done? If the Union of the States be necessary, Government must be equally so; for without the latter, the former cannot be effected. Government must then have its complete powers, or be ineffectual: Legislative to fix rules, impose sanctions, and point out the punishment of the transgressors of these rules,—an Executive to watch over officers and bring them to punishment,—a Judiciary to guard the innocent, and fix the guilty, by a fair trial: Without an Executive, offenders would not be brought to punishment: Without a Judiciary, any man might be taken up, convicted and punished, without a trial. Hence the necessity of having these three branches. Would any Gentleman in this Committee agree to vest these three powers in one body, Congress? No.—Hence the necessity of a new organization and distribution of those powers. If there be any feature in this Government which is not republican, it would be exceptionable: From all the public servants, responsibility is secured, by their being Representatives, mediate or immediate, for short terms, and their powers defined. It is on the whole complexion of it, a Government of laws, not of men: But it is represented to be a consolidated Government annihilating those of the States; a consolidated Government, which so extensive a territory as the United States, cannot admit of, without terminating in despotism: If this be such a Government, I will confess with my worthy friend [George Mason], that it is inadmissible, over such a territory as this country. Let us consider whether it be such a Government or not: I should understand a consolidated Government to be that which should have the sole and exclusive power, Legislative, Executive, and Judicial, without any limitation: Is this such a Government? Or can it be changed to such a one? It only extends to the general purposes of the Union. It does not intermeddle with the local particular affairs of the States. Can Congress legislate for the State of Virginia? Can they make a law altering the form of transferring property, or the rule of descents in



Virginia? In one word, can they make a single law for the individual exclusive purpose of any one State? It is the interest of the Federal to preserve the State Governments; upon the latter, the existence of the former depends: The Senate derives its existence immediately from the State Legislatures; and the Representatives and President are elected under their direction and controul: They also preserve order among the citizens of their respective States, and without order and peace, no society can possibly exist. Unless therefore, there be State Legislatures, to continue the existance of Congress, and preserve order and peace among the inhabitants, this General Government which Gentlemen suppose will annihilate the State Governments, must itself be destroyed: When therefore the Federal Government is in so many respects so absolutely dependent on the State Governments, I wonder how any Gentleman reflecting on the subject, could have conceived an idea of a possibility of the former destroying the latter. But the power of laying direct taxes is objected to. Government must be supported; this cannot be done without a revenue: If a sufficient revenue be not otherwise raised, recurrence must be had to direct taxation: Gentlemen admit this, but insist on the propriety of first applying to the State Legislatures. Let us consider the consequence that would result from this: In the first place, time would be lost by it: Congress would make requisitions in December, our Legislature do not meet till October; here would be a considerable loss of time, admitting the requisitions to be fully complied with: But suppose the requisitions to be refused; would it not be dangerous to send a collector, to collect the Congressional taxes, after the State Legislature had absolutely refused to comply with the demands of Congress? Would not resistance to collectors be the probable consequence? Would not this resistance terminate in confusion, and a dissolution of the Union? The concurrent power of two different bodies laying direct taxes, is objected to: These taxes are for two different purposes, and cannot interfere with one another: I can see no danger resulting from this; and we must suppose, that a very small sum more than the impost would be sufficient: But the representation is supposed too small: I confess I think with the Gentleman who opened the debate, (Mr. Nicholas) on this subject; and I think he gave a very satisfactory answer to this objection, when he observed, that though the number might be insufficient to convey information of necessary local interests to a State Legislature; yet it was sufficient for the Federal Legislature, who are to act only on general subjects, in which this State is concerned in common with other States. The apportionment of representation and taxation by the same

scale is just: It removes the objection, that while Virginia paid one sixth part of the expences of the Union, she had no more weight in public counsels than Delaware, which paid but a very small ~~(pro)~~portion: By this just apportionment she is put on a footing with the small States, in point of representation, and influence in counsels: I cannot imagine a more judicious principle than is here fixed by the Constitution: The number *shall not exceed* one for every 30,000. But it is objected that the number *may be* less. If Virginia sends in that proportion, I ask, where is the power in Congress to reject them? States might incline to send too many; they are therefore restrained: But can it be doubted, that they will send the number they are intitled to? We may be therefore sure, from this principle unequivocally fixt in the Constitution, that the number of our Representatives shall be in proportion to the increase or decrease of our population. I can truly say, that I am of no party, nor actuated by any influence, but the true interest and real happiness of those whom I represent; and my age and situation, I trust, will sufficiently demonstrate the truth of this assertion: I cannot conclude, without adding that I am perfectly satisfied with this part of the system.

Mr. Lee, (*of Westmoreland.*)—Mr. Chairman—I feel every power of my mind moved by the language of the Honorable Gentleman yesterday [Patrick Henry]. The eclat and brilliancy which have distinguished that Gentleman, the honors with which he has been dignified, and the brilliant talents which he has so often displayed, have attracted my respect and attention. On so important an occasion and before so respectable a body, I expected a new display of his powers of oratory: But instead of proceeding to investigate the merits of the new plan of Government, the worthy character informed us of horrors which he felt, of apprehensions in his mind, which make him tremblingly fearful of the fate of the Commonwealth: Mr. Chairman, was it proper to appeal to the fear of this House? The question before us belongs to the judgment of this House: I trust he is come to judge and not to alarm. I trust that he, and every other Gentleman in this House, comes with a firm resolution, coolly and calmly to examine, and fairly and impartially to determine. He was pleased to pass an eulogium on that great character [George Washington], who is the pride of peace and support of war; and declared that even from him he would require the reason of proposing such a system. I cannot see the propriety of mentioning that illustrious character on this occasion; we must be all fully impressed with a conviction of his extreme rectitude of conduct: But, Sir, this system is to be examined by its own merit. He then adverted to the stile of the Government, and asked what authority they had to use the expression *We, the people*, and not *We, the States*; this

expression was introduced into that paper with great propriety: This system is submitted to the people for their consideration, because on them it is to operate if adopted. It is not binding on the people till it becomes their act. It is now submitted to the people of Virginia.— If we do not adopt it, it will be always null and void as to us. Suppose it was found to be proper for our adoption, in becoming the Government of the people of Virginia, by what stile should it be done? Ought we not to make use of the name of the people? No other stile would be proper.—He then spoke of the characters of the Gentlemen who framed it; this was inapplicable, strange, and unexpected: It was a more proper inquiry whether such evils existed, as rendered necessary a change of Government. This necessity is evidenced by the concurrent testimony of almost all America. The legislative acts of different States avow it. It is acknowledged by the acts of this State; under such an act we are here now assembled. If reference to the acts of the Assemblies will not sufficiently convince him of this necessity, let him go to our sea-ports—let him see our commerce languishing—not an American bottom to be seen—let him ask the price of land, and of produce in different parts of the country: To what cause shall we ascribe the very low prices of these? To what cause are we to attribute the decrease of population, and industry? and the impossibility of employing our tradesmen and mechanics? To what cause will the Gentleman impute these and a thousand other misfortunes our people labour under? These, Sir, are owing to the imbecility of the confederation; to that defective system which never can make us happy at home, nor respectable abroad. The Gentleman sat down as he began, leaving us to ruminate on the horrors which he opened with. Although I could trust to the argument of the Gentleman [George Nicholas] who spoke yesterday in favor of the plan, permit me to make one observation on the weight of our Representatives in the Government. If the House of Commons in England, possessing less power, are now able to withstand the power of the Crown: If that House of Commons which has been undermined by corruption in every age, and contaminated by bribery even in this enlightened age, with far less powers than our Representatives possess, is still able to contend with the Executive of that country, what danger have we to fear that our Representatives cannot successfully oppose the encroachments of the other branches of Government? Let it be remembered, that in the year 1782, the East-India bill was brought into the House of Commons: Although the members of that House are only elected in part by the landed interest, yet in spite of ministerial influence that bill was carried in that House by a majority of 130, and the King was obliged to dissolve

the Parliament, to prevent its effect.<sup>7</sup> If then the House of Commons was so powerful, no danger can be apprehended that our House of Representatives is not amply able to protect our liberties. I trust that this representation is sufficient to secure our happiness, and that we may fairly congratulate ourselves on the superiority of our Government to that I just referred to.

Mr. *Henry*.—Mr. Chairman—I am much obliged to the very worthy Gentleman [Henry Lee of Westmoreland] for his encomium. I wish I was possessed of talents, or possessed of any thing, that might enable me to elucidate this great subject. I am not free from suspicion: I am apt to entertain doubts: I rose yesterday to ask a question, which arose in my own mind. When I asked that question, I thought the meaning of my interrogation was obvious: The fate of this question and America may depend on this: Have they said, we the States? Have they made a proposal of a compact between States? If they had, this would be a confederation: It is otherwise most clearly a consolidated government. The question turns, Sir, on that poor little thing—the expression, *We, the people*, instead of the States of America. I need not take much pains to shew, that the principles of this system, are extremely pernicious, impolitic, and dangerous. Is this a Monarchy, like England—a compact between Prince and people; ~~which~~ ~~with~~ checks on the former, to secure the liberty of the latter? Is this a Confederacy, like Holland—an association of a number of independent States, each of which retain(s) its individual sovereignty? It is not a democracy, wherein the people retain all their rights securely. Had these principles been adhered to, we should not have been brought to this alarming transition, from a Confederacy to a consolidated Government. We have no detail of those great considerations which, in my opinion, ought to have abounded before we should recur to a government of this kind. Here is a revolution as radical as that which separated us from Great Britain. It is as radical, if in this transition, our rights and privileges are endangered, and the sovereignty of the States be relinquished: And cannot we plainly see, that this is actually the case? The rights of conscience, trial by jury, liberty of the press, all your immunities and franchises, all pretensions to human rights and privileges, are rendered insecure, if not lost, by this change so loudly talked of by some, and inconsiderately by others. Is this tame relinquishment of rights worthy of freemen? Is it worthy of that manly fortitude that ought to characterize republicans: It is said eight States have adopted this plan.<sup>8</sup> I declare that if twelve States and an half had adopted it, I would with manly firmness, and in spite of an erring world, reject it. You are not to inquire how your trade may be increased, nor how you are to



my opinion, the highest encomium: It carried us through a long and dangerous war: It rendered us victorious in that bloody conflict with a powerful nation: It has secured us a territory greater than any European Monarch possesses: And shall a Government which has been thus strong and vigorous, be accused of imbecility and abandoned for want of energy? Consider what you are about to do before you part with this Government. Take longer time in reckoning things: revolutions like this have happened in almost every country in Europe: Similar examples are to be found in ancient Greece and ancient Rome: Instances of the people losing their liberty by their own carelessness and the ambition of a few. We are cautioned by the Honorable Gentleman who presides [Edmund Pendleton], against faction and turbulence: I acknowledge that licentiousness is dangerous, and that it ought to be provided against: I acknowledge also the new form of Government may effectually prevent it: Yet, there is another thing it will as effectually do; it will oppress and ruin the people. There are sufficient guards placed against sedition and licentiousness: For when power is given to this Government to suppress these, or, for any other purpose, the language it assumes is clear, express, and unequivocal, but when this Constitution speaks of privileges, there is an ambiguity, Sir, a fatal ambiguity;—an ambiguity which is very astonishing: In the clause under consideration, there is the strangest language that I can conceive. I mean, when it says, that there shall not be more Representatives, than one for every 30,000. Now, Sir, how easy is it to evade this privilege? “The number shall not exceed one for every 30,000.” This may be satisfied by one Representative from each State. Let our numbers be ever so great, this immense continent, may, by this artful expression, be reduced to have but 13 Representatives: I confess this construction is not natural; but the ambiguity of the expression lays a good ground for a quarrel. Why was it not clearly and unequivocally expressed, that they *should* be entitled to have one for every 30,000? This would have obviated all disputes; and was this difficult to be done? What is the inference? When population increases, and a State shall send Representatives in this proportion, Congress *may* remand them, because the right of having one for every 30,000 is not clearly expressed: This possibility of reducing the number to one for each State, approximates to probability by that other expression, “but each State shall at least have one Representative.” Now is it not clear that from the first expression, the number might be reduced so much, that some States should have no Representative at all, were it not for the insertion of this last expression? And as this is the only restriction upon them, we may fairly conclude that they *may* restrain the number to one from each State:

Perhaps the same horrors may hang over my mind again. I shall be told I am continually afraid: But, Sir, I have strong cause of apprehension: In some parts of the plan before you, the great rights of freemen are endangered, in other parts absolutely taken away. How does your trial by jury stand? In civil cases gone—not sufficiently secured in criminal—this best privilege is gone: But we are told that we need not fear, because those in power being our Representatives, will not abuse the powers we put in their hands: I am not well versed in history, but I will submit to your recollection, whether liberty has been destroyed most often by the licentiousness of the people, or by the tyranny of rulers? I imagine, Sir, you will find the balance on the side of tyranny: Happy will you be if you miss the fate of those nations, who, omitting to resist their oppressors, or negligently suffering their liberty to be wrested from them, have groaned under intolerable despotism. Most of the human race are now in this deplorable condition: and those nations who have gone in search of grandeur, power and splendor, have also fallen a sacrifice, and been the victims of their own folly: While they acquired those visionary blessings, they lost their freedom. My great objection to this Government is, that it does not leave us the means of defending our rights; or, of waging war against tyrants: It is urged by some Gentlemen, that this new plan will bring us an acquisition of strength, an army, and the militia of the States: This is an idea extremely ridiculous: Gentlemen cannot be in earnest. This acquisition will trample on your fallen liberty: Let my beloved Americans guard against that fatal lethargy that has pervaded the universe: Have we the means of resisting disciplined armies, when our only defence, the militia is put into the hands of Congress? The Honorable Gentleman said, that great danger would ensue if the Convention rose without adopting this system: I ask, where is that danger? I see none: Other Gentlemen have told us within these walls, that the Union is gone—or, that the Union will be gone: Is not this trifling with the judgment of their fellow-citizens? Till they tell us the ground of their fears, I will consider them as imaginary: I rose to make enquiry where those dangers were; they could make no answer: I believe I never shall have that answer: Is there a disposition in the people of this country to revolt against the dominion of laws? Has there been a single tumult in Virginia? Have not the people of Virginia, when labouring under the severest pressure of accumulated distresses, manifested the most cordial acquiescence in the execution of the laws? What could be more awful than their unanimous acquiescence under general distresses? Is there any revolution in Virginia? Whither is the spirit of America gone? Whither is the genius of America fled? It was but yesterday, when our

enemies marched in triumph through our country: Yet the people of this country could not be appalled by their pompous armaments: They stopped their career, and victoriously captured them: Where is the peril now compared to that? Some minds are agitated by foreign alarms: Happily for us, there is no real danger from Europe; that country is engaged in more arduous business; from that quarter there is no cause of fear: You may sleep in safety forever for [i.e., from] them. Where is the danger? If, Sir, there was any, I would recur to the American spirit to defend us;—that spirit which has enabled us to surmount the greatest difficulties: To that illustrious spirit I address my most fervent prayer, to prevent our adopting a system destructive to liberty. Let not Gentlemen be told, that it is not safe to reject this Government. Wherefore is it not safe? We are told there are dangers; but those dangers are ideal; they cannot be demonstrated: To encourage us to adopt it, they tell us, that there is a plain easy way of getting amendments: When I come to contemplate this part, I suppose that I am mad, or, that my countrymen are so: The way to amendment, is, in my conception, shut. Let us consider this plain easy way: “The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the Legislatures of two-thirds of the several States, shall call a Convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the Legislatures of three-fourths of the several States, or by Conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress. Provided, that no amendment which may be made prior to the year 1808, shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no State, without its consent, shall be deprived of its equal suffrage in the Senate.” Hence it appears that three-fourths of the States must ultimately agree to any amendments that may be necessary. Let us consider the consequences of this: However uncharitable it may appear, yet I must tell my opinion, that the most unworthy characters may get into power and prevent the introduction of amendments: Let us suppose (for the case is supposeable, possible, and probable) that you happen to deal these powers to unworthy hands; will they relinquish powers already in their possession, or, agree to amendments? Two-thirds of the Congress, or, of the State Legislatures, are necessary even to propose amendments: If one-third of these be unworthy men, they may prevent the application for amendments; but what is destructive and mischievous is, that three-fourths of the State Legislatures, or of State Conventions, must concur in the



amendments when proposed: In such numerous bodies, there must necessarily be some designing bad men: To suppose that so large a number as three-fourths of the States will concur, is to suppose that they will possess genius, intelligence, and integrity, approaching to miraculous. It would indeed be miraculous that they should concur in the same amendments, or, even in such as would bear some likeness to one another. For four of the smallest States, that do not collectively contain one-tenth part of the population of the United States, may obstruct the most salutary and necessary amendments: Nay, in these four States, six tenths of the people may reject these amendments; and suppose, that amendments shall be opposed to amendments (which is highly probable) Is it possible, that three-fourths can ever agree to the same amendments? A bare majority in these four small States may hinder the adoption of amendments; so that we may fairly and justly conclude, that one-twentieth part of the American people, may prevent the removal of the most grievous inconveniencies and oppression, by refusing to accede to amendments. A trifling minority may reject the most salutary amendments. Is this an easy mode of securing the public liberty? It is, Sir, a most fearful situation, when the most contemptible minority can prevent the alteration of the most oppressive Government; for it may in many respects prove to be such: Is this the spirit of republicanism? What, Sir, is the genius of democracy? Let me read that clause of the Bill of Rights of Virginia, which relates to this: 3d cl. "That Government is or ought to be instituted for the common benefit, protection, and security of the people, nation, or community: Of all the various modes and forms of Government, that is best which is capable of producing the greatest degree of happiness and safety, and is most effectually secured against the danger of mal-administration, and that whenever any Government shall be found inadequate, or contrary to these purposes, a majority of the community hath, an undubitable, unalienable and indefeasible right to reform, alter, or abolish it, in such manner as shall be judged most conducive to the public weal."<sup>10</sup> This, Sir, is the language of democracy; that a majority of the community have a right to alter their Government when found to be oppressive: But how different is the genius of your new Constitution from this? How different from the sentiments of freemen, that a contemptible minority can prevent the good of the majority? If then Gentlemen standing on this ground, are come to that point, that they are willing to bind themselves and their posterity to be oppressed, I am amazed and inexpressibly astonished. If this be the opinion of the majority, I must submit; but to me, Sir, it appears perilous and destructive: I cannot help thinking so: Perhaps it may be the result of my age; these may

be feelings natural to a man of my years, when the American spirit has left him, and his mental powers, like the members of the body, are decayed. If, Sir, amendments are left to the twentieth or (to) the tenth part of the people of America, your liberty is gone forever. We have heard that there is a great deal of bribery practised in the House of Commons in England; and that many of the members raised themselves to preferments, by selling the rights of the people: But, Sir, the tenth part of that body cannot continue oppressions on the rest of the people. English liberty is in this case, on a firmer foundation than American liberty. It will be easily contrived to procure the opposition of one tenth of the people to any alteration, however judicious. The Honorable Gentleman who presides [Edmund Pendleton], told us, that to prevent abuses in our Government, we will assemble in Convention, recall our delegated powers, and punish our servants for abusing the trust reposed in them. Oh, Sir, we should have fine times indeed, if to punish tyrants, it were only sufficient to assemble the people. Your arms wherewith you could defend yourselves, are gone; and you have no longer an aristocratical; no longer a democratical spirit. Did you ever read of any revolution in any nation, brought about by the punishment of those in power, inflicted by those who had no power at all? You read of a riot act in a country which is called one of the freest in the world, where a few neighbours cannot assemble without the risk of being shot by a hired soldiery, the engines of despotism.<sup>11</sup> We may see such an act in America. A standing army we shall have also, to execute the execrable commands of tyranny: And how are you to punish them? Will you order them to be punished? Who shall obey these orders? Will your Macebearer be a match for a disciplined regiment? In what situation are we to be? The clause before you gives a power of direct taxation, unbounded and unlimited: Exclusive power of Legislation in all cases whatsoever, for ten miles square; and over all places purchased for the erection of forts, magazines, arsenals, dock-yards, &c. What resistance could be made? The attempt would be madness. You will find all the strength of this country in the hands of your enemies: Those garrisons will naturally be the strongest places in the country. Your militia is given up to Congress also in another part of this plan: They will therefore act as they think proper: All power will be in their own possession: You cannot force them to receive their punishment: Of what service would militia be to you, when most probably you will not have a single musket in the State; for as arms are to be provided by Congress, they may or may not furnish them. Let me here call your attention to that part which gives the Congress power, "To provide for organizing, arming, and disciplining the militia, and

for governing such part of them as may be employed in the service of the United States, reserving to the States respectively, the appointment of the officers, and the authority of training the militia, according to the discipline prescribed by Congress." By this, Sir, you see that their controul over our last and best defence, is unlimited. If they neglect or refuse to discipline or arm our militia, they will be useless: The States can do neither, this power being exclusively given to Congress: The power of appointing officers over men not disciplined or armed, is ridiculous: So that this pretended little remains of power left to the States, may, at the pleasure of Congress, be rendered nugatory. Our situation will be deplorable indeed: Nor can we ever expect to get this government amended, since I have already shewn, that a very small minority may prevent it; and that small minority interested in the continuance of the oppression: Will the oppressor let go the oppressed? Was there ever an instance? Can the annals of mankind exhibit one single example, where rulers overcharged with power, willingly let go the oppressed, though solicited and requested most earnestly? The application for amendments will therefore be fruitless. Sometimes the oppressed have got loose by one of those bloody struggles that desolate a country. (But) A willing relinquishment of power is one of those things which human nature never was, nor ever will be capable of: The Honorable Gentleman's [Edmund Pendleton] observations respecting the people's right of being the agents in the formation of this Government, are not accurate in my humble conception. The distinction between a National Government and a Confederacy is not sufficiently discerned. Had the delegates who were sent to Philadelphia a power to propose a Consolidated Government instead of a Confederacy? Were they not deputed by States, and not by the people? The assent of the people in their collective capacity is not necessary to the formation of a Federal Government. The people have no right to enter into leagues, alliances, or confederations: They are not the proper agents for this purpose: States and sovereign powers are the only proper agents for this kind of Government: Shew me an instance where the people have exercised this business: Has it not always gone through the Legislatures? I refer you to the treaties with France, Holland, and other nations: How were they made? Were they not made by the States? Are the people therefore in their aggregate capacity, the proper persons to form a Confederacy? This, therefore, ought to depend on the consent of the Legislatures; the people having never sent delegates to make any proposition of changing the Government. Yet I must say, at the same time, that it was made on grounds the most pure, and perhaps I might have been brought to consent to

it so far as to the change of Government; but there is one thing in it which I never would acquiesce in. I mean the changing it into a Consolidated Government; which is so abhorrent to my mind. The Honorable Gentleman then went on to the figure we make with foreign nations; the contemptible one we make in France and Holland; which, according to the substance of my notes, he attributes to the present feeble Government. An opinion has gone forth, we find, that we are a contemptible people: The time has been when we were thought otherwise: Under this same despised Government, we commanded the respect of all Europe: Wherefore are we now reckoned otherwise? The American spirit has fled from hence: It has gone to regions, where it has never been expected: It has gone to the people of France in search of a splendid Government—a strong energetic Government. Shall we imitate the example of those nations who have gone from a simple to a splendid Government(?) Are those nations more worthy of our imitation? What can make an adequate satisfaction to them for the loss they suffered in attaining such a Government for the loss of their liberty? If we admit this Consolidated Government it will be because we like a great splendid one. Some way or other we must be a great and mighty empire; we must have an army, and a navy, and a number of things: When the American spirit was in its youth, the language of America was different: Liberty, Sir, was then the primary object. We are descended from a people whose Government was founded on liberty: Our glorious forefathers of Great-Britain, made liberty the foundation of every thing. That country is become a great, mighty, and splendid nation; not because their Government is strong and energetic; but, Sir, because liberty is its direct end and foundation: We drew the spirit of liberty from our British ancestors; by that spirit we have triumphed over every difficulty: But now, Sir, the American spirit, assisted by the ropes and chains of consolidation, is about to convert this country (in)to a powerful and mighty empire: If you make the citizens of this country agree to become the subjects of one great consolidated empire of America, your Government will not have sufficient energy to keep them together: Such a Government is incompatible with the genius of republicanism: There will be no checks, no real balances, in this Government: What can avail your specious imaginary balances, your rope-dancing, chain-rattling, ridiculous ideal checks and contrivances? But, Sir, we are not feared by foreigners; we do not make nations tremble: Would this, Sir, constitute happiness, or secure liberty? I trust, Sir, our political hemisphere will ever direct their operations to the security of those objects. Consider our situation, Sir: Go to the poor man, ask him what he does; he will inform you,

that he enjoys the fruits of his labour, under his own fig-tree, with his wife and children around him, in peace and security.<sup>12</sup> Go to every other member of the society, you will find the same tranquil ease and content; you will find no alarms or disturbances(!) Why then tell us of dangers to terrify us into an adoption of this new (form of) Government? and yet who knows the dangers that this new system may produce; they are out of the sight of the common people: They cannot foresee latent consequences: I dread the operation of it on the middling and lower class of people: It is for them I fear the adoption of this system. I fear I tire the patience of the Committee, but I beg to be indulged with a few more observations: When I thus profess myself an advocate for the liberty of the people, I shall be told, I am a designing man, that I am to be a great man, that I am to be a demagogue; and many similar illiberal insinuations will be thrown out; but, Sir, conscious rectitude, out-weighs these things with me: I see great jeopardy in this new Government. I see none from our present one: I hope some Gentleman or other will bring forth, in full array, those dangers, if there be any, that we may see and touch them: I have said that I thought this a Consolidated Government: I will now prove it. Will the great rights of the people be secured by this Government? Suppose it should prove oppressive, how can it be altered? Our Bill of Rights declares, "That a majority of the community hath an *undubitable, unalienable, and indefeasible right* to reform, alter, or abolish it, in such manner as shall be judged most conducive to the public weal."<sup>13</sup> I have just proved that one tenth, or less, of the people of America, a most despicable minority may prevent this reform or alteration. Suppose the people of Virginia should wish to alter their Government, can a majority of them do it? No, because they are connected with other men; or, in other words, consolidated with other States: When the people of Virginia at a future day shall wish to alter their Government, though they should be unanimous in this desire, yet they may be prevented therefrom by a despicable minority at the extremity of the United States: The founders of your own Constitution made your Government changeable: But the power of changing it is gone from you! Whither is it gone? It is placed in the same hands that hold the rights of twelve other States; and those who hold those rights, have right and power to keep them: It is not the particular Government of Virginia: One of the leading features of that Government is, that a majority can alter it, when necessary for the public good. This Government is not a Virginian but an American Government. Is it not therefore a Consolidated Government? The sixth clause of your Bill of Rights tells you, "That elections of members to serve as Represen-

tatives of the people in Assembly, ought to be free, and that all men having sufficient evidence of permanent common interest with, and attachment to the community, have the right of suffrage, and *cannot be taxed or deprived of their property* for public uses, without their own consent, or that of their Representatives so elected, nor bound by any law to which they have not in like manner assented for the public good."<sup>14</sup> But what does this Constitution say? The clause under consideration gives an unlimited and unbounded power of taxation: Suppose every delegate from Virginia opposes a law laying a tax, what will it avail? They are opposed by a majority: Eleven members can destroy their efforts: Those feeble ten cannot prevent the passing the most oppressive tax law. So that in direct opposition to the spirit and express language of your Declaration of Rights, you are taxed, not by your own consent, but by people who have no connection with you. The next clause of the Bill of Rights tells you, "That all power of suspending law, or the execution of laws, by any authority without the consent of the Representatives of the people, is injurious to their rights, and ought not to be exercised." This tells us that there can be no suspension of Government, or laws without our own consent: Yet this Constitution can counteract and suspend any of our laws, that contravene its oppressive operation; for they have the power of direct taxation; which suspends our Bill of Rights; and it is expressly provided, that they can make all laws necessary for carrying their powers into execution; and it is declared paramount to the laws and constitutions of the States. Consider how the only remaining defence we have left is destroyed in this manner: Besides the expences of maintaining the Senate and other House in as much splendor as they please, there is to be a great and mighty President, with very extensive powers; the powers of a King; He is to be supported in extravagant magnificence: So that the whole of our property may be taken by this American Government, by laying what taxes they please, giving themselves what salaries they please, and suspending our laws at their pleasure: I might be thought too inquisitive, but I believe I should take up but very little of your time in enumerating the little power that is left to the Government of Virginia; for this power is reduced to little or nothing: Their garrisons, magazines, arsenals, and forts, which will be situated in the strongest places within the States: Their ten miles square, with all the fine ornaments of human life, added to their powers, and taken from the States, will reduce the power of the latter to nothing. The voice of tradition, I trust, will inform posterity of our struggles for freedom: If our descendants be worthy the name of Americans, they will preserve and hand down to their latest posterity, the transactions of the present

times; and though, I confess, my exclamations are not worthy the hearing, they will see that I have done my utmost to preserve their liberty: For I never will give up the power of direct taxation, but for a scourge: I am willing to give it conditionally; that is, after non-compliance with requisitions: I will do more, Sir, and what I hope will convince the most sceptical man, that I am a lover of the American Union, that in case Virginia shall not make punctual payment, the controul of our custom houses, and the whole regulation of trade, shall be given to Congress, and that Virginia shall depend on Congress even for passports, till Virginia shall have paid the last farthing; and furnished the last soldier: Nay, Sir, there is another alternative to which I would consent: Even that they should strike us out of the Union, and take away from us all federal privileges till we comply with federal requisitions; but let it depend upon our own pleasure to pay our money in the most easy manner for our people. Were all the States, more terrible than the mother country, to join against us, I hope Virginia could defend herself; but, Sir, the dissolution of the Union is most abhorrent to my mind: The first thing I have at heart is American *liberty*; the second thing is American Union; and I hope the people of Virginia will endeavor to preserve that Union: The increasing population of the southern States, is far greater than that of New-England: Consequently, in a short time, they will be far more numerous than the people of that country: Consider this, and you will find this State more particularly interested to support American liberty, and not bind our posterity by an improvident relinquishment of our rights. I would give the best security for a punctual compliance with requisitions; but I beseech Gentlemen, at all hazards, not to give up this unlimited power of taxation: The Honorable Gentleman [Edmund Pendleton] has told us these powers given to Congress, are accompanied by a Judiciary which will correct all: On examination you will find this very Judiciary oppressively constructed; your jury trial destroyed, and the Judges dependent on Congress. In this scheme of energetic Government, the people will find two sets of tax-gatherers—the State and the Federal Sheriffs. This it seems to me will produce such dreadful oppression, as the people cannot possibly bear: The Federal Sheriff may commit what oppression, make what distresses he pleases, and ruin you with impunity: For how are you to tie his hands? Have you any sufficient decided means of preventing him from sucking your blood by speculations, commissions and fees? Thus thousands of your people will be most shamefully robbed: Our State Sheriffs, those unfeeling blood-suckers, have, under the watchful eye of our Legislature, committed the most horrid and barbarous ravages on our people: It has required

the most constant vigilance of the Legislature to keep them from totally ruining the people: A repeated succession of laws has been made to suppress their iniquitous speculations and cruel extortions; and as often have their nefarious ingenuity devised methods of evading the force of those laws:<sup>15</sup> In the struggle they have generally triumphed over the Legislature. It is a fact that lands have sold for five shillings, which were worth one hundred pounds: If Sheriffs thus immediately under the eye of our State Legislature and Judiciary, have dared to commit these outrages, what would they not have done if their masters had been at Philadelphia or New-York? If they perpetrate the most unwarrantable outrage on your persons or property, you cannot get redress on this side of Philadelphia or New-York: And how can you get it there? If your domestic avocations could permit you to go thither, there you must appeal to Judges sworn to support this Constitution, in opposition to that of any State, and who may also be inclined to favor their own officers: When these harpies are aided by excise men, who may search at any time your houses and most secret recesses, will the people bear it? If you think so you differ from me: Where I thought there was a possibility of such mischiefs, I would grant power with a niggardly hand; and here there is a strong probability that these oppressions shall actually happen. I may be told, that it is safe to err on that side; because such regulations *may* be made by Congress, as shall restrain these officers, and because laws are made by our Representatives, and judged by righteous Judges: But, Sir, as these regulations may be made, so they may not; and many reasons there are to induce a belief that they will not: I shall therefore be an infidel on that point till the day of my death.

This Constitution is said to have beautiful features; but when I come to examine these features, Sir, they appear to me ~~horridly~~ <sup>(horribly)</sup> frightful: Among other deformities, it has an awful squinting; it squints towards monarchy: And does not this raise indignation in the breast of every ~~(true)~~ American? Your President may easily become King: Your Senate is so imperfectly constructed that your dearest rights may be sacrificed by what may be a small minority; and a very small minority may continue forever unchangeably this Government, although horridly defective: Where are your checks in this Government? Your strong holds will be in the hands of your enemies: It is on a supposition that ~~(y)~~our American Governors shall be honest, that all the good qualities of this Government are founded: But its defective, and imperfect construction, puts it in their power to perpetrate the worst of mischiefs, should they be bad men: And, Sir, would not all the world, from the Eastern to the Western hemisphere, blame our distracted



folly in resting our rights upon the contingency of our rulers being good or bad. Shew me that age and country where the rights and liberties of the people were placed on the sole chance of their rulers being good men, without a consequent loss of liberty? I say that the loss of that dearest privilege has ever followed with absolute certainty, every such mad attempt. If your American chief, be a man of ambition, and abilities, how easy is it for him to render himself absolute(!) The army is in his hands, and, if he be a man of address, it will be attached to him; and it will be the subject of long meditation with him to seize the first auspicious moment to accomplish his design; and, Sir, will the American spirit solely relieve you when this happens? I would rather infinitely, and I am sure most of this Convention are of the same opinion, have a King, Lords, and Commons, than a Government so replete with such insupportable evils. If we make a King, we may prescribe the rules by which he shall rule his people, and interpose such checks as shall prevent him from infringing them: But the President, in the field, at the head of his army, can prescribe the terms on which he shall reign master, so far that it will puzzle any American ever to get his neck from under the galling yoke. I cannot with patience, think of this idea. If ever he violates the laws, one of two things will happen: He shall come at the head of his army to carry every thing before him; or, he will give bail, or do what Mr. Chief Justice will order him. If he be guilty, will not the recollection of his crimes teach him to make one bold push for the American throne? Will not the immense difference between being master of every thing, and being ignominiously tried and punished, powerfully excite him to make this bold push? But, Sir, where is the existing force to punish him? Can he not at the head of his army beat down every opposition? Away with your President, we shall have a King: The army will salute him Monarch; your militia will leave you and assist in making him King, and fight against you: And what have you to oppose this force? What will then become of you and your rights? Will not absolute despotism ensue? (Here Mr. Henry strongly and pathetically expatiated on the probability of the President's enslaving America, and the ~~horrible~~ ~~horrid~~ consequences that must result.) What can be more defective than the clause concerning the elections?—The controul given to Congress over the time, place, and manner of holding elections, will totally destroy the end of suffrage. The elections may be held at one place, and the most inconvenient in the State; or they may be at remote distances from those who have a right of suffrage: Hence nine out of ten must either not vote at all, or vote for strangers: For the most influential characters will be applied to, to know who are the most

proper to be chosen. I repeat that the controul of Congress over the *manner*, &c. of electing, well warrants this idea. The natural consequence will be, that this democratic branch, will possess none of the public confidence: The people will be prejudiced against Representatives chosen in such an injudicious manner. The proceedings in the northern conclave will be hidden from the yeomanry of this country: We are told that the yeas and nays shall be taken and entered on the journals: This, Sir, will avail nothing: It may be locked up in their chests, and concealed forever from the people; for they are not to publish what parts they think require secrecy: They *may* think, and *will think*, the whole requires it. Another beautiful feature of this Constitution is, the publication from time to time of the receipts and expenditures of the public money. This expression, from time to time, is very indefinite and indeterminate: It may extend to a century. Grant that any of them are wicked, they may squander the public money so as to ruin you, and yet this expression will give you no redress. I say, they may ruin you;—for where, Sir, is the responsibility? The yeas and nays will shew you nothing, unless they be fools as well as knaves: For after having wickedly trampled on the rights of the people, they would act like fools indeed, were they to publish and devulge their iniquity, when they have it equally in their power to suppress and conceal it.—Where is the responsibility—that leading principle in the British government? In that government a punishment, certain and inevitable, is provided: But in this, there is no real actual punishment for the grossest maladministration. They may go without punishment, though they commit the most outrageous violation on our immunities. That paper may tell me they will be punished. I ask, by what law? They must make the law—for there is no existing law to do it. What—will they make a law to punish themselves? This, Sir, is my great objection to the Constitution, that there is no true responsibility—and that the preservation of our liberty depends on the single chance of men being virtuous enough to make laws to punish themselves. In the country from which we are descended, they have real, and not imaginary, responsibility—for there, maladministration has cost their heads, to some of the most saucy geniuses that ever were. The Senate, by making treaties may destroy your liberty and laws for want of responsibility. Two-thirds of those that shall happen to be present, can, with the President, make treaties, that shall be the supreme law of the land: They may make the most ruinous treaties; and yet there is no punishment for them. Whoever shews me a punishment provided for them, will oblige me. So, Sir, notwithstanding there are eight pillars, they want another. Where will they make another? I trust, Sir, the exclusion of the evils

wherewith this system is replete, in its present form, will be made a condition, precedent to its adoption, by this or any other State. The transition from a general unqualified admission to offices, to a consolidation of government, seems easy; for though the American States are dissimilar in their structure, this will assimilate them: This, Sir, is itself a strong consolidating feature, and is not one of the least dangerous in that system. Nine States are sufficient to establish this Government over those nine: Imagine that nine have come into it. Virginia has certain scruples. Suppose she will consequently, refuse to join with those States:—May not they still continue in friendship and union with her? If she sends her annual requisitions in dollars, do you think their stomachs will be so squeamish that they will refuse her dollars? Will they not accept her regiments? They would intimidate you into an inconsiderate adoption, and frighten you with ideal evils, and that the Union shall be dissolved. 'Tis a bugbear, Sir:—The fact is, Sir, that the eight adopting States can hardly stand on their own legs. Public fame tells us, that the adopting States have already heart-burnings and animosity, and repent their precipitate hurry: This, Sir, may occasion exceeding great mischief. When I reflect on these and many other circumstances, I must think those States will be fond to be in confederacy with us. If we pay our quota of money annually, and furnish our rateable number of men, when necessary, I can see no danger from a rejection. The history of Switzerland clearly proves, (that) we might be in amicable alliance with those States without adopting this Constitution. Switzerland is a Confederacy, consisting of dissimilar Governments. This is an example which proves that Governments of dissimilar structures may be Confederated; that Confederate Republic has stood upwards of 400 years; and although several of the individual republics are democratic, and the rest aristocratic, no evil has resulted from this dissimilarity, for they have braved all the power of France and Germany during that long period. The Swiss spirit, Sir, has kept them together: They have encountered and overcome immense difficulties with patience and fortitude. In this vicinity of powerful and ambitious monarchs, they have retained their independence, republican simplicity and valour. (Here he makes a comparison of the people of that country, and those of France, and makes a quotation from Addison, illustrating the subject.) Look at the peasants of that country and of France, and mark the difference. You will find the condition of the former far more desirable and comfortable. No matter whether a people be great, splendid, and powerful, if they enjoy freedom. The Turkish Grand Seignior, along-side of our President, would put us to disgrace: But we should be abundantly consoled for this disgrace, when

our citizen should be put in contrast with the Turkish slave. The most valuable end of government, is the liberty of the inhabitants. No possible advantages can compensate for the loss of this privilege. Shew me the reason why the American Union is to be dissolved. Who are those eight adopting States? Are they averse to give us a little time to consider, before we conclude? Would such a disposition render a junction with them eligible; or is it the genius of that kind of government, to precipitate people hastily into measures of the utmost importance, and grant no indulgence? If it be, Sir, is it for us to accede to such a government? We have a right to have time to consider—We shall therefore insist upon it. Unless the government be amended, we can never accept it. The adopting States will doubtless accept our money and our regiments—And what is to be the consequence, if we are disunited? I believe that it is yet doubtful, whether it is not proper to stand by a while, and see the effect of its adoption in other States. In forming a government, the utmost care should be taken to prevent its becoming oppressive; and this government is of such an intricate and complicated <sup>(a)</sup> nature, that no man on this earth can know its real operation. The other States have no reason to think, from the antecedent conduct of Virginia, that she has any intention of seceding from the Union, or of being less active to support the general welfare. Would they not therefore acquiesce in our taking time to deliberate? Deliberate whether the measure be not perilous, not only for us, but the adopting States. Permit me, Sir, to say, that a great majority of the people even in the adopting States, are averse to this government. I believe I would be right to say, that they have been egregiously misled. Pennsylvania has *perhaps* been tricked into it. If the other States who have adopted it, have not been tricked, still they were too much hurried into its adoption. There were very respectable minorities in several of them; and if reports be true, a clear majority of the people are averse to it. If we also accede, and it should prove grievous, the peace and prosperity of our country, which we all love, will be destroyed. This government has not the affection of the people, at present. Should it be oppressive, their affection will be totally estranged from it—and, Sir, you know that a Government without their affections can neither be durable nor happy. I speak as one poor individual—but when I speak, I speak the language of thousands. But, Sir, I mean not to breath(e) the spirit nor utter the language of secession. I have trespassed so long on your patience, I am really concerned that I have something yet to say. The honorable member has said that we shall be properly represented: Remember, Sir, that the number of our Representatives is but ten, whereof six is a majority. Will these men be

possessed of sufficient information? A particular knowledge of particular districts will not suffice. They must be well acquainted with agriculture, commerce, and a great variety of other matters throughout the Continent: They must know not only the actual state of nations in Europe, and America, the situation of their farmers, cottagers, and mechanics, but also the relative situation and intercourse of those nations. Virginia is as large as England. Our proportion of Representatives is but ten men. In England they have 530. The House of Commons in England, numerous as they are, we are told, is bribed, and have bartered away the rights of their constituents: What then shall become of us? Will these few protect our rights? Will they be incorruptible? You say they will be better men than the English Commoners. I say they will be infinitely worse men, because they are to be chosen blindfolded: Their election (the term, as applied to their appointment, is inaccurate) will be an involuntary nomination, and not a choice. I have, I fear, fatigued the Committee, yet I have not said the one hundred thousandth part of what I have on my mind, and wish to impart. On this occasion I conceived myself bound to attend strictly to the interest of the State; and I thought her dearest rights at stake: Having lived so long—been so much honored—my efforts, though small, are due to my country. I have found my mind hurried on from subject to subject, on this very great occasion. We have been all out of order from the Gentleman [Edmund Pendleton] who opened today, to myself. I did not come prepared to speak on so multifarious a subject, in so general a manner. I trust you will indulge me another time.—Before you abandon the present system, I hope you will consider not only its defects, most maturely, but likewise those of that which you are to substitute to it. May you be fully apprised of the dangers of the latter, not by fatal experience, but by some abler advocate than me.<sup>16</sup>

Governor *Randolph*.—Mr. Chairman—If we go on in this irregular manner, contrary to our resolution, instead of three or six weeks, it will take us six months to decide this question. I shall endeavor to make the Committee sensible of the necessity of establishing a national Government: In the course of my argument I shall shew the inefficacy of the Confederation. It is too late to enter into the subject now, but I shall take the first opportunity for that purpose. I mention this to shew that I had not answered him fully, nor in a general way yesterday.

The Committee then rose—And on motion, *Resolved*, That this Convention will, to-morrow, again resolve itself into a Committee of the whole Convention, to take into farther consideration, the proposed Constitution of Government.

And then the Convention adjourned until to-morrow morning ten o'clock.

1. This day's minutes were printed in the *Virginia Independent Chronicle* on 11 June (Mfm:Va.) and reprinted in the *Pennsylvania Journal* on 14 June (excerpt) and 21 June (complete). Excerpts also appeared in the *Norfolk and Portsmouth Journal* on 18 June and in nine out-of-state newspapers between 13 and 24 June: R.I. (1), N.Y. (5), Pa. (3).

2. For Anderson's petition, see Cumberland County Election (II above).

3. For the manuscript version of this report, see Mfm:Va.

4. For the manuscript version of this report, see Mfm:Va.

5. For an act passed in December 1787 calling for the repeal of all state laws repugnant to the Treaty of Peace as soon as the British complied with its terms, see RCS:Va., xxv-xxvii.

6. See Convention Debates, 4 June, note 18 (above).

7. It is unclear exactly what Henry Lee is referring to in that many of his statements appear to be incorrect. In November 1783, Charles James Fox, secretary of state for foreign affairs, introduced a bill in the House of Commons calling for the reorganization of the government of India. It transferred the control of India from the East India Company to commissioners named in the bill, who would be replaced by Crown appointees after four years. The bill passed by a vote of 208 to 102. Viewing the measure as an opportunity to destroy a coalition government he disliked, George III let it be known to the members of the House of Lords "that he should consider all who voted for it as his enemies." Consequently, the Lords defeated the bill, the Fox-North Coalition fell, and William Pitt the Younger formed a new government. The House of Commons voted 153 to 80 that it was a breach of privilege to report the King's personal opinion on a bill (Watson, *The Reign of George III*, 261-67).

8. On the previous day, news arrived in Richmond that South Carolina had become the eighth state to ratify the Constitution. (See William Grayson to Nathan Dane, 4 June, V below.)

9. Henry refers to the reaction to a speech that he made in the House of Burgesses in May 1765 when he introduced his resolutions attacking the Stamp Act. An anonymous French traveler, the only known eye-witness source for the incident, said that Henry was interrupted by shouts of treason when he said that Tarquin and Julius Caesar had their Brutus and Charles I his Cromwell ("Journal of a French Traveller in the Colonies, 1765," *American Historical Review*, XXVI [1920-21], 745).

10. The italics that appear in the *Debates* are not in the Declaration of Rights.

11. In response to the "many rebellious Riots and Tumults . . . in divers Parts of this Kingdom," the British Parliament passed the Riot Act in 1715 that provided for the "more speedy and effectual" punishment of rioters. Whenever twelve or more persons who had "unlawfully, riotously, and tumultuously assembled together" refused to disperse within one hour after being commanded to do so by a proclamation read by the civil authorities, the civil authorities were authorized and required to "seize and apprehend such Persons." These authorities could not be held liable for any injury or death to any of the assembled persons who refused to disperse or resisted arrest.

12. 1 Kings 4:25. "And Judah and Israel dwelt safely, every man under his vine and under his fig tree, from Dan even to Beersheba, all the days of Solomon."

13. See note 10 (above).

14. See note 10 (above).

15. For example, on 7 January 1788, the legislature passed "An act to remedy abuses in the manner of selling lands for the payment of public taxes" because "the manner of selling land, as heretofore practised by the various sheriffs and collectors, for the payment of the public taxes due thereon, has in many instances, produced great oppres-

sion" (Hening, XII, 564–66). For a general discussion of the role of sheriffs in collecting taxes in the 1770s and 1780s, see Albert Ogden Porter, *County Government in Virginia: A Legislative History, 1607–1904* (New York, 1947), 133–43.

16. An extract of a 6 June letter from James Madison states that "Mr H made a great effort yesterday & having spun his harangue until a late hour, an answer was prevented; His party were much revived—, but I think they are less so this morning" (quoted in Samuel A. Otis to Theodore Sedgwick, 15 June, V below).

## The Virginia Convention Friday 6 June 1788

### Debates<sup>1</sup>

Mr. *Harrison* reported from the Committee of Privileges and Elections, that the Committee had, according to order, had under their consideration the petition of Thomas Stith, complaining of an undue election and return of Mr. Binns Jones, as a Delegate to this Convention for the county of Brunswick, and had come to several resolutions thereupon, which he read in his place, and afterwards delivered in at the Clerk's table, where the same were again read, and are as followeth:

*Resolved, That it is the opinion of this Committee, That the usual rule (of) prescribing a time for the delivery of lists of persons to be objected to, be dispensed with on this occasion, the petitioner having waved his right to require the same from the sitting member, and having agreed to deliver a list of persons to whom he objects, on or before 12 o'clock to-morrow.*

*Resolved, That it is the opinion of this Committee, That the depositions of the witnesses, as well on behalf of the petitioner as the sitting member, be taken before Thomas Edmonds, Benjamin Blick, Sterling Edmonds, Andrew Meade, John F. Edmonds, John Powell, and James Fletcher, Gentlemen, or any four of them.*

*Resolved, That it is the opinion of this Committee, That the farther consideration of the said petition be deferred until Wednesday the eighteenth of this instant (June.)<sup>2</sup>*

The first and second resolutions being severally read a second time, were, on the question (being) put thereupon, agreed to by the House.

The last resolution being again read, a motion was made, and the question being put, to amend the same by striking out the words "Wednesday the eighteenth," and inserting in lieu thereof, the words "Friday the twentieth:"

It was resolved in the affirmative.

And then the main question being put, that the House do agree to the resolution so amended;

It was resolved in the affirmative.

On motion,—*Ordered*, That the Committee of Privileges and Elections be discharged from further proceeding on the petition of Thomas Stith, to them referred, and that the petitioner have leave to withdraw the same.

The Convention then, according to the order of the day, again resolved itself into a Committee of the whole Convention, to take into farther consideration, the proposed plan of Government.—Mr. *Wythe* in the Chair.

*(The first and second sections still under consideration.)*

Governor *Randolph*.<sup>3</sup>—Mr. Chairman—I am a child of the revolution. My country very early indeed took me under its protection, at a time when I most wanted it; and by a succession of favors and honors, prevented even my most ardent wishes. I feel the highest gratitude and attachment to my country—her felicity is the most fervent prayer of my heart. Conscious of having exerted my faculties to the utmost in her behalf; if I have not succeeded in securing the esteem of my countrymen, I shall reap abundant consolation from the rectitude of my intentions: Honors, when compared to the satisfaction accruing from a conscious independence and rectitude of conduct, are no equivalent. The unwearied study of my life, shall be to promote her happiness. As a citizen, ambition and popularity are no objects with me. I expect in the course of a year to retire to that private station which I most sincerely and cordially prefer to all others.<sup>4</sup> The security of public justice, Sir, is what I most fervently wish—as I consider that object to be the primary step to the attainment of public happiness. I can declare to the whole world, that in the part I take in this very important question, I am actuated by a regard for what I conceive, to be our true interest: I can also with equal sincerity, declare that I would join heart and hand in rejecting this system, did I conceive it would promote our happiness: But having a strong conviction on my mind, at this time, that by a disunion we shall throw away all those blessings we have so earnestly fought for; and that a rejection of the Constitution will operate disunion—pardon me if I discharge the obligation I owe to my country by voting for its adoption. We are told that the report of dangers is false. The cry of peace, Sir, is false: Say peace when there is peace: It is but a sudden calm. The tempest growls over you—look round—wheresoever you look, you see danger. When there are so many witnesses in many parts of America, that justice is suffocated, shall peace and happiness still be said to reign? Candour,



Sir, requires an undisguised representation of our situation.—Candour, Sir, demands a faithful exposition of facts. Many citizens have found justice strangled and trampled under foot, through the course of jurisprudence in this country. Are those who have debts due to them satisfied with your Government? Are not creditors wearied with the tedious procrastination of your legal process? a process obscured by Legislative mists. Cast your eyes to your seaports, see how commerce languishes: This country, so blessed by nature with every advantage that can render commerce profitable, through defective legislation, is deprived of all the benefits and emoluments she might otherwise reap from it. We hear many complaints on the subject of located lands—a variety of competitors claiming the same lands under Legislative acts—public faith prostrated, and private confidence destroyed. I ask you if your laws are revered? In every well regulated community the laws command respect. Are yours entitled to reverence? We not only see violations of the Constitution, but of national principles in repeated instances. How is the fact? The history of the violations of the Constitution extend(s) from the year 1776, to this present time—violations made by formal acts of the Legislature: Every thing has been drawn within the Legislative vortex. There is one example of this violation in Virginia, of a most striking and shocking nature—an example, so horrid, that if I conceived my country would passively permit a repetition of it, dear as it is to me, I would seek means of expatriating myself from it. A man who was then a citizen was deprived of his life, thus—from a mere reliance on general reports, a Gentleman in the House of Delegates informed the House, that a certain man (Josiah Phillips) had committed several crimes, and was running at large perpetrating other crimes, he therefore moved for leave to attaint him; he obtained that leave instantly; no sooner did he obtain it, than he drew from his pocket a bill ready written for that effect; it was read three times in one day, and carried to the Senate: I will not say that it passed the same day through the Senate: But he was attainted very speedily and precipitately, without any proof better than vague reports! Without being confronted with his accusers and witnesses; without the privilege of calling for evidence in his behalf, he was sentenced to death, and was afterwards actually executed.<sup>5</sup> Was this arbitrary deprivation of life, the dearest gift of God to man, consistent with the genius of a Republican Government? Is this compatible with the spirit of freedom? This, Sir, has made the deepest impression in my heart, and I cannot contemplate it without horror. There are still a multiplicity of complaints of the debility of the laws. Justice in many instances is so unattainable that commerce may in fact be said to be

stopped entirely. There is no peace, Sir, in this land: Can peace exist with injustice, licentiousness, insecurity, and oppression? These considerations, independent of many others which I have not yet enumerated, would be a sufficient reason for the adoption of this Constitution, because it secures the liberty of the citizen, his person, and property, and will invigorate and restore commerce and industry. An additional reason to induce us to adopt it is, that excessive licentiousness which has resulted from the relaxation of our laws, and which will be checked by this Government. Let us judge from the fate of more antient nations; licentiousness has produced tyranny among many of them: It has contributed as much (if not more) as any other cause whatsoever, to the loss of their liberties. I have respect for the integrity of our Legislators—I believe them to be virtuous: But as long as the defects of the Constitution exist, so long will laws be imperfect. The Honorable Gentleman [Patrick Henry] went on further and said that the accession of eight States is not a reason for our adoption—many other things have been alledged out of order—instead of discussing the system regularly, a variety of points are promiscuously debated in order to make temporary impressions on the members.—Sir, were I convinced of the validity of their arguments, I would join them heart and hand. Were I convinced that the accession of eight States did not render our accession also necessary to preserve the Union, I would not accede to it till it should be previously amended: But, Sir, I am convinced that the Union will be lost by our rejection.—Massachusetts has adopted it; she has recommended subsequent amendments; her influence must be very considerable to obtain them: I trust my countrymen have sufficient wisdom and virtue to entitle them to equal respect. Is it urged that being *wiser* we ought to prescribe amendments to the other States? I have considered this subject deliberately; wearied myself in endeavoring to find a possibility of preserving the Union, without our unconditional ratification, but, Sir, in vain; I find no other means. I ask myself a variety of questions applicable to the adopting States, and I conclude, will they repent (of) what they have done? Will they acknowledge themselves in an error? Or, will they recede to gratify Virginia? My prediction is, that they will not. Shall we stand by ourselves, and be severed from the Union if amendments cannot be had? I have every reason for determining within myself, that our rejection must dissolve the Union; and that that dissolution will destroy our political happiness. The Honorable Gentleman [Patrick Henry] was pleased to draw out several other arguments out of order:—That this Government would destroy the State Governments, the trial by jury, &c. &c. and concluded by an illustration of his opinion, by a reference

to the confederacy of the Swiss. Let us argue with unprejudiced minds: They say that the trial by jury is gone—Is this so? Although I have declared my determination to give my vote for it, yet I shall freely censure those parts which appear to me reprehensible. The trial by jury in criminal cases is secured—In civil cases it is not so expressly secured, as I could wish it; but it does not follow, that Congress has the power of taking away this privilege, which is secured by the Constitution of each State, and not given away by this Constitution—I have no fear on this subject—Congress must regulate it so as to suit every State. I will risk my property on the certainty, that they will institute the trial by jury in such manner as shall accommodate the conveniences of the inhabitants in every State: The difficulty of ascertaining this accommodation, was the principal cause of its not being provided for. It will be the interest of the individuals composing Congress to put it on this convenient footing. Shall we not choose men respectable for their good qualities? Or can we suppose that men tainted with the worst vices will get into Congress? I beg leave to differ from the Honorable Gentleman, in another point. He dreads that great inconveniences will ensue from the Federal Court: That our citizens will be harrassed by being carried thither. I cannot think that this power of the Federal Judiciary will necessarily be abused: The inconvenience here suggested being of a general nature, affecting most of the States, will, by general consent of the States, be removed; and, I trust, such regulations shall be made in this case, as will accommodate the people in every State. The Honorable Gentleman instanced the Swiss cantons, as an example, to shew us the possibility, if not expediency, of being in amicable alliance with the other States, without adopting this system. Sir, references to history will be fatal in political reasons, unless well guarded. Our mental ability is often too contracted, and powers of investigation so limited, that sometimes we adduce as an example in our favor, what in fact militates against us. Examine the situation of that country comparatively to us: The extent and situation of that country is totally different from ours: Their country is surrounded by powerful, ambitious, and reciprocally jealous nations: Their territory small and the soil not very fertile. The peculiarity, Sir, of their situation, has kept them together, and not that system of alliance, to which the Gentleman seems to attribute the durability, and felicity of their connection. (Here his Excellency quotes some passages from *Stanyard*<sup>6</sup> illustrating his argument, and largely commented upon it. The effect of which was, that the narrow confines of that country rendered it very possible for a system of confederacy to accommodate those cantons, that would not suit the United States: That it was the fear of the

ambitious and warlike nations that surrounded them, and the reciprocal jealousy of the other European powers that rendered their Union so durable; and that notwithstanding these circumstances, and their being a hardy race of people, yet such was the injudicious construction of their confederacy, that very considerable broils interrupted their harmony sometimes.)—His Excellency then continued—I have produced this example to shew, that we ought not to be amused with historical references, which have no kind of analogy to the points under our consideration: We ought to confine ourselves to those points solely, which have an immediate and strict similitude, to the subject of our discussion. The reference made by the Honorable Gentleman [Patrick Henry] over the way, is extremely inapplicable to us. Are the Swiss cantons circumstanced as we are? Are we surrounded by formidable nations? Or, are we situated in any manner like them? We are not, Sir. Then it naturally results that no such friendly intercourse as he flattered himself with, could take place, in case of a dissolution of our Union: We are remotely situated from powerful nations, the dread of whose attack might impel us to unite firmly with one another; nor are we situated in an inaccessible strong position: We have to fear much from one another: We must soon feel the fatal effects of an imperfect system of Union. The Honorable Gentleman [Patrick Henry] attacks the Constitution as he thinks it contrary to our Bill of Rights. Do we not appeal to the people by whose authority all Government is made? That Bill of Rights is of no validity, because, I conceive, it is not formed on due authority. It is not a part of our Constitution: It has never secured us against any danger: It has been repeatedly disregarded and violated. But we must not discard the Confederation, for the remembrance of its past services. I am attached to old servants. I have regard and tenderness for this old servant: But when reason tells us, that it can no longer be retained without throwing away all it has gained us; and running the risk of losing every thing dear to us, must we still continue our attachment? Reason and my duty tell(s) me not. Other Gentlemen may think otherwise. But, Sir, is it not possible that men may differ in sentiments, and still be honest? We have an inquisition within ourselves, that leads us not to offend so much against charity. The Gentleman [Patrick Henry] expresses a necessity of being suspicious of those who govern: I will agree with him in the necessity of political jealousy to a certain extent: But we ought to examine how far this political jealousy ought to be carried: I confess that a certain degree of it is highly necessary to the preservation of liberty; but it ought not to be extended to a degree which is degrading and humiliating to human nature; to a degree of restlessness, and active dis-

quietude, sufficient to disturb a community, or preclude the possibility of political happiness and contentment. Confidence ought also to be equally limited. Wisdom shrinks from extremes, and fixes on a medium as her choice. Experience and history, the least fallible judges, teach us that in forming a government, the powers to be given must be commensurate to the object: A less degree will defeat the intention, and a greater will subject the people to the depravity of rulers, who, though they are but the agents of the people, pervert their powers to their own emolument, and ambitious views.—Mr. Chairman, I am sorry to be obliged to detain the House, but the relation of a variety of matters, renders it now unavoidable. I informed the House yesterday before rising, that I intended to shew the necessity of having a national Government in preference to the Confederation; also to shew the necessity of conceding the power of taxation, and distinguish between its objects; and I am the more happy, that I possess materials of information for that purpose: My intention then is, to satisfy the Gentlemen of this Committee, that a national Government is absolutely indispensable, and that a Confederacy is not eligible, in our present situation: The introductory step to this will be, to endeavor to convince the House of the necessity of the Union, and that the present Confederation is actually inadequate and unamendable. The extent of the country is objected by the Gentleman over the way [George Mason], as an insurmountable obstacle to the establishing a national Government in the United States. 'Tis a very strange and inconsistent doctrine, to admit the necessity of the Union, and yet urge this last objection, which I think goes radically to the existence of the Union itself. If the extent of the country be a conclusive argument, against a national Government, 'tis equally so against an union with the other States. Instead of entering largely into a discussion of the nature and effect of the different kinds of Government, or into an enquiry into the particular extent of country, that may suit the genius of this or that Government—I ask this question—is this Government necessary for the safety of Virginia? Is the Union indispensable for our happiness? I confess it is imprudent for any nation to form alliance with another, whose situation and construction of Government are dissimilar with its own. It is impolitic and improper for men of opulence to join their interest with men of indigence and chance. But we are now enquiring particularly, whether Virginia, as contradistinguished from the other States, can exist without the Union. A hard question, perhaps after what has been said. I will venture, however, to say, she cannot. I shall not rest contented with asserting. I shall endeavor to prove. Look at the most powerful nations on earth. England and France have had

recourse to this expedient: Those countries found it necessary to unite with their immediate neighbours, and this union has prevented the most lamentable mischiefs. What divine pre-eminence is Virginia possessed of above other States? Can Virginia send her navy and thunder to bid defiance to foreign nations? And can she exist without an Union with her neighbours, when the most potent nations have found such an union necessary, not only to their political felicity, but their national existence? Let us examine her ability: Although it be impossible to determine with accuracy, what degree of internal strength a nation ought to possess, to enable it to stand by itself; yet there are certain sure facts and circumstances which demonstrate that a particular nation cannot stand singly. I have spoken with freedom, and, I trust, I have done it with decency—but I must also speak with truth. If Virginia can exist without the Union, she must derive that ability from one or other of these sources, viz: From her natural situation, or because she has no reason to fear from other nations. What is her situation? She is not inaccessible: She is not a petty republic, like that of St. Marino, surrounded with rocks and mountains, with a soil not very fertile, nor worthy the envy of surrounding nations: Were this, Sir, her situation, she might like that petty State subsist, separated from all the world. On the contrary, she is very accessible: The large capacious Bay of Chesapeake, which is but too excellently adapted for the admission of enemies, renders her very vulnerable. I am informed, and I believe rightly, because I derive my information from those whose knowledge is most respectable, that Virginia is in a very unhappy position with respect to the access of foes by sea, though happily situated for commerce. This being her situation by sea, let us look at land: She has frontiers adjoining the States of Pennsylvania, Maryland and North-Carolina; two of those States have declared themselves members of the Union: Will she be inaccessible to the inhabitants of those States? Cast your eyes to the Western Country, that is inhabited by cruel savages, your natural enemies; besides their natural propensity to barbarity, they may be excited by the gold of foreign enemies to commit the most horrid ravages on your people. Our great encreasing population is one remedy to this evil; but being scattered thinly over so extensive a country, how difficult is it to collect their strength, or defend the country. This is one point of weakness.—I wish for the honor of my countrymen that it was the only one.—There is another circumstance which renders us more vulnerable: Are we not weakened by the population of those whom we hold in slavery? The day may come when they may make impression upon us. Gentlemen who have been long accustomed to the contemplation of the subject, think there

is a cause of alarm in this case: The number of those people, compared to that of the whites, is in an immense proportion: Their number amounts to 236,000—that of the whites only to 352,000. Will the American spirit, so much spoken of, repel an invading enemy, or enable you to obtain an advantageous peace? Manufactures and military stores may afford relief to a country exposed: Have we these at present? Attempts have been made to have these here. If we shall be separated from the Union, shall our chance of having these be greater? Or, will not the want of these be more deplorable? We shall be told of the exertions of Virginia under the Confederation—her achievements when she had no commerce: These, Sir, were necessary for her immediate safety, nor would these have availed without the aid of the other States: Those States then our friends, brothers, and supporters, will, if disunited from us, be our bitterest enemies. If then, Sir, Virginia from her situation is not inaccessible, or invulnerable, let us consider if she be protected by having no cause to fear from other nations: Has she no cause to fear? You will have cause to fear as a nation, if disunited; you will not only have this cause to fear from yourselves, from that species of population I before mentioned, and your once sister States, but from the arms of other nations: Have you no cause of fear from Spain, whose dominions border on your country? Every nation, every people, in our circumstances, have always had abundant cause to fear. Let us see the danger to be apprehended from France: Let us suppose Virginia separated from the other States: As part of the former confederated States, she will owe France a very considerable sum—France will be as magnanimous as ever.—France by the law of nations will have a right to demand the whole of her, or of the others. If France were to demand it, what would become of the property of America? Could she not destroy what little commerce we have? Could she not seize our ships, and carry havock and destruction before her on our shores? The most lamentable desolation would take place. We owe a debt to Spain also; do we expect indulgence from that quarter? That nation has a right to demand the debt due to it, and power to enforce that right. Will the Dutch be silent about the debt due to them? Is there any one pretension that any of these nations will be patient? The debts due to the British are also very considerable: These debts have been withheld contrary to treaty: If Great-Britain will demand the payment of these debts peremptorily, what will be the consequence? Can we pay them if demanded? Will no danger result from a refusal? Will the British nation suffer their subjects to be stripped of their property? Is not that nation amply able to do its subjects justice? Will the resentment of that powerful and supercilious nation

sleep forever? If we become one sole nation, uniting with our sister States, our means of defence will be greater; the indulgence for the payment of those debts will be greater, and the danger of an attack less probable. Moreover, vast quantities of lands have been sold by citizens of this country to Europeans, and these lands cannot be found. Will this fraud be countenanced or endured? Among so many causes of danger, shall we be secure separated from our sister States? Weakness itself, Sir, will invite some attack upon your country. Contemplate our situation deliberately, and consult history: It will inform you that people in our circumstances have ever been attacked, and successfully: Open any page and you will there find our danger truly depicted. If such a people had any thing, was it not taken? The fate which will befall us, I fear, Sir, will be, that we shall be made a partition of. How will these our troubles be removed? Can we have any dependence on commerce? Can we make any computation on this subject? Where will our flag appear? So high is the spirit of commercial nations that they will spend five times the value of the object, to exclude their rivals from a participation in commercial profits: They seldom regard any expences. If we should be divided from the rest of the States, upon what footing would our navigation in the Mississippi be? What would be the probable conduct of France and Spain? Every Gentleman may imagine in his own mind, the natural consequences. To these considerations, I might add many others of a similar nature. Were I to say that the boundary between us and North-Carolina is not yet settled;<sup>7</sup> I should be told, that Virginia and that State go together. But what, Sir, will be the consequence of the dispute that may arise between us and Maryland on the subject of Potowmack river. It is thought Virginia has a right to an equal navigation with them in that river. If ever it should be decided on grounds of prior right, their charter will inevitably determine it in their favor. The country called the Northern neck, will probably be severed from Virginia: There is not a doubt, but the inhabitants of that part will annex themselves to Maryland, if Virginia refuse to accede to the Union. The recent example of those regulations lately made respecting that territory, will illustrate that probability.<sup>8</sup> Virginia will also be in danger of a conflict with Pennsylvania, on the subject of boundaries. I know that some Gentlemen are thoroughly persuaded that we have a right to those disputed boundaries: If we have such a right, I know not where it is to be found.<sup>9</sup> Are we not borderers on States that will be separated from us? Call to mind the history of every part of the world, where nations bordered on one another, and consider the consequences of our separation from the Union. Peruse those histories and you find such coun-



tries to have ever been almost a perpetual scene of bloodshed and slaughter. The inhabitants of one escaping from punishment into the other—protection given them—consequent pursuit—robbery, cruelty, and murder. A numerous standing army, that dangerous expedient, would be necessary, but not sufficient for the defence of such borders: Every Gentleman will amplify the scene in his own mind. If you wish to know the extent of such a scene, look at the history of England and Scotland before the Union, you will see their borderers continually committing depredations, and cruelties of the most calamitous and deplorable nature on one another. Mr. Chairman, were we struck off from the Union, and disputes of the back lands should be renewed, which are of the most alarming nature, and which must produce uncommon mischiefs, can you inform me how this great subject would be settled? Virginia has a large unsettled country: She has at last quieted it: But there are great doubts whether she has taken the best way to effect it. If she has not, disagreeable consequences may ensue.<sup>10</sup> I have before hinted at some other causes of quarrel between the other States and us: Particularly the hatred that would be generated by commercial competitions. I will only add, on that subject, that controversies may arise concerning the fisheries, which must terminate in wars. Paper money may also be an additional source of disputes. Rhode-Island has been in one continued train of opposition to national duties and integrity: They have defrauded their creditors by their paper money.<sup>11</sup> Other States have also had emission of paper money, to the ruin of credit and commerce. May not Virginia at a future day also recur to the same expedient? Has Virginia no affection for paper money, or disposition to violate contracts? I fear she is as fond of these measures as most other States in the Union. The inhabitants of the adjacent States would be affected by the depreciation of paper money, which would assuredly produce a dispute with those States. This danger is taken away by the present Constitution, as it provides, "That no State shall emit bills of credit." Maryland has counteracted the policy of this State frequently, and may be meditating examples of this kind again. Before the revolution there was a contest about those back lands, in which even Government was a party: It was put an end to by the war. Pennsylvania was ready to enter into a war with us for the disputed lands near the boundaries, and nothing but the superior prudence of the man who was at the head of affairs in Virginia, could have prevented it.<sup>12</sup> I beg leave to remind you of the strength of Massachusetts, and other States to the north, and what would their conduct be to us if disunited from them: In case of a conflict between us and Maryland, or Pennsylvania, they would be aided by the whole strength of the

more northern States; in short, by that of all the adopting States. For these reasons, I conceive, that if Virginia supposes she has no cause of apprehension, she will find herself in a fatal error. Suppose the American spirit in the fullest vigor in Virginia, what military preparations and exertions is she capable of making? The other States have upwards of 330,000 men capable of bearing arms: This will be a good army, or they can very easily raise a good army out of so great a number. Our militia amounts to 50,000; even stretching it to the improbable amount (urged by some) of 60,000.—In case of an attack, what defence can we make? Who are militia? Can we depend solely upon these? I will pay the last tribute of gratitude to the militia of my country: They performed some of the most gallant feats during the last war, and acted as nobly as men enured to other avocations could be expected to do: But, Sir, it is dangerous to look to them as our sole protectors. Did ever militia defend a country? Those of Pennsylvania were said to differ very little from regulars, yet these, Sir, were insufficient for the defence of that State. The militia of our country will be wanted for agriculture: On this noblest of arts depends the virtue and the very existence of a country: If it be neglected, every thing else must be in a state of ruin and decay. It must be neglected if those hands which ought to attend to it are occasionally called forth on military expeditions. Some also will be necessary for manufacturers, and those mechanic arts which are necessary for the aid of the farmer and planter.—If we had men, sufficient in number to defend ourselves, it could not avail without other requisites. We must have a navy, Sir, to be supported in time of peace as well as war, to guard our coasts and defend us against invasions. The impossibility of building and equipping a fleet in a short time constitutes the necessity of having a certain number of ships of war always ready in time of peace: The maintaining a navy will require money—and where, Sir, can we get money for this and other purposes? How shall we raise it? Review the enormity of the debts due by this country: The amount of the debt we owe to the Continent, for bills of credit, rating at forty for one, will amount to between 6 or 700,000 pounds.<sup>13</sup> There is also due the Continent, the balance of requisitions due by us,<sup>14</sup> and in addition to this proportion of the old continental debt, there are the foreign, domestic, state military, and loan-office debts; to which when you add the British debt, where is the possibility of finding money to raise an army or navy? Review then your real ability. Shall we recur to loans? Nothing can be more impolitic: They impoverish a nation: We, Sir, have nothing to repay them; nor, Sir, can we procure them. Our numbers are daily encreasing by emigration, but this, Sir, will not

relieve us, when our credit is gone, and it is impossible to borrow money. If the imposts and duties in Virginia, even on the present footing, be very unproductive, and not equal to our necessity, what would it be if we were separated from the Union? From the first of September, to the first of June, the amount put into the treasury is only 59,000 l. or a little more. But, Sir, if smuggling be introduced, in consequence of high duties, or otherwise, and the Potowmack should be lost, what hope is there of getting money from these? Shall we be asked, if the impost should be bettered by the Union? I answer that it will, Sir. Credit being restored, and confidence diffused in the country, merchants and men of wealth will be induced to come among us, emigration will encrease, and commerce will flourish: The impost will therefore be more sure and productive. Under those circumstances, can you find men to defend you? If not men, where can you have a navy? It is an old observation, that he who commands the sea, will command the land; and it is justified by modern experience in war. The sea can only be commanded by commercial nations: The United States have every means by nature to enable them to distribute supplies mutually among one another, to supply other nations with many articles, and to carry for other nations: Our commerce would not be kindly received by foreigners, if transacted solely by ourselves; as it is the spirit of commercial nations to ingross as much as possible, the carrying trade: This makes it necessary to defend our commerce: But how shall we encompass this end? England has arisen to the greatest height, in modern times, by her navigation act, and other excellent regulations. The same means would produce the same effects. We have inland navigation. Our last exports did not exceed 1,000,000 l. Our export trade is entirely in the hands of foreigners. We have no manufactures—depend for supplies on other nations, and so far are we from having any carrying trade, that as I have already said, our exports are in the hands of foreigners. Besides the profit that might be made by our natural materials, much greater gains would accrue from their being first wrought before they were exported. England has reaped immense profits by this, nay even by purchasing and working up those materials which their country did not afford: Her success in commerce is generally ascribed to her navigation act. Virginia would not, incumbered as she is, agree to have such an act. Thus for want of a navy, are we deprived of the multifarious advantages of our natural situation, nor is it possible, that, if the Union is dissolved, we ever should have a navy sufficient either for our defence, or the extension of our trade. I beg Gentlemen to consider these two things—our inability to raise and man a navy,—and the dreadful consequences of a dissolution of

the Union. I will close this catalogue of the evils of the dissolution of the Union, by recalling to your mind what passed in the year 1781. Such was the situation of our affairs then, that the powers of a Dictator were given to the Commander in Chief to save us from destruction.<sup>15</sup> This shews the situation of the country to have been such as made it ready to embrace an actual Dictator: At some future period, will not our distresses impel us to do what the Dutch have done, throw all power in the hands of a Stadtholder? How infinitely more wise and eligible than this desperate alternative, is an Union with our American brethren? I feel myself so abhorrent to any thing that will dissolve our Union, that I cannot prevail on myself to assent to it directly or indirectly. If the Union is to be dissolved, what step is to be taken?—Shall we form a partial Confederacy? Or, is it expected that we shall successfully apply to foreign alliance for military aid? This last measure, Sir, has ruined almost every nation that used it: So dreadful an example ought to be most cautiously avoided; for seldom has a nation recurred to the expedient of foreign succour, without being ultimately crushed by that succour. We may lose our liberty and independence by this injudicious scheme of policy: Admitting it to be a scheme replete with safety, what nation shall we solicit?—France? She will disdain a connection with a people in our predicament. I would trust every thing to the magnanimity of that nation—but she would despise a people who had, like us, so imprudently separated from their brethren; and, Sir, were she to accede to our proposal, with what facility could she become mistress of our country? To what nation then shall we apply?—To Great-Britain? Nobody has as yet trusted that idea. An application to any other must be either fruitless or dangerous: To those who advocate local confederacies, and at the same time preach up for republican liberty, I answer that their conduct is inconsistent: The defence of such partial confederacies, will require such a degree of force and expence, as will destroy every feature of republicanism. Give me leave to say, that I see nought but destruction in a local confederacy. With what State can we confederate but North-Carolina?—North-Carolina situated worse than ourselves. Consult your own reason: I beseech Gentlemen most seriously to reflect on the consequences of such a confederacy: I beseech them to consider, whether Virginia and North-Carolina, both oppressed with debts and slaves, can defend themselves externally, or make their people happy internally. North-Carolina having no strength but militia, and Virginia in the same situation, will make, I fear, but a despicable figure in history. Thus, Sir, I hope that I have satisfied you, that we are unsafe without the Union—and that in Union alone safety consists. I come now, Sir, to the great

enquiry, whether the Confederation be such a Government as we ought to continue under.—Whether it be such a Government as can secure the felicity of any free people. Did I believe the Confederation was a good thread, which might be broken without destroying its utility entirely, I might be induced to concur in putting it together—but, I am so thoroughly convinced of its incapacity to be mended or spliced, that I would sooner recur to any other expedient. When I spoke last, I endeavored to express my sentiments concerning that system, and to apologize (if an apology was necessary) for the conduct of its framers<sup>16</sup>—That it was hastily devised to enable us to repel a powerful enemy—that the subject was novel, and that its inefficacy was not discovered till requisitions came to be made by Congress. In the then situation of America, a speedy remedy was necessary to ward the danger, and this sufficiently answered that purpose: But so universally is its imbecility now known, that it is almost useless for me to exhibit it at this time. Has not Virginia, as well as every other State, acknowledged its debility, by sending Delegates to the General Convention? The Confederation is, of all things the most unsafe, not only to trust to in its present form, but even to amend. The object of a Federal Government is to remedy and strengthen the weakness of its individual branches; whether that weakness arises from situation or any other external cause. With respect to the first, is it not a miracle that the Confederation carried us through the last war? It was our unanimity, Sir, that carried us through it. That system was not ultimately concluded till the year 1781—Although the greatest exertions were made before that time: Then came requisitions for men and money: Its defects then were immediately discovered: The quotas of men were readily sent—Not so those of money. One State feigned inability—another would not comply till the rest did, and various excuses were offered; so that no money was sent into the treasury—not a requisition was fully complied with. Loans were the next measure fallen upon: Upwards of 80,000,000 of dollars were wanting, beside the emissions of dollars forty for one—These things shew the impossibility of relying on requisitions. (Here his Excellency enumerates the different delinquencies of different States, and the consequent distresses of Congress.)—If the American spirit is to be depended upon, I call him to awake, to see how his Americans have been disgraced: But I have no hopes that things will be better hereafter. I fully expect things will be as they have been, and that the same derangements will produce similar miscarriages. Will the American spirit produce money, or credit, unless we alter our system? Are we not in a contemptible situation? Are we not the jest of other nations? But it is insinuated by the Honorable

Gentleman [Patrick Henry], we want to be a grand, splendid, and magnificent people: We wish not to become so: The magnificence of a royal court is not our object. We want Government, Sir—A Government that will have stability, and give us security: For our present Government is destitute of the one, and incapable of producing the other. It cannot, perhaps with propriety, be denominated a Government—being void of that energy requisite to enforce sanctions. I wish my country not to be contemptible in the eyes of foreign nations.—A well regulated community is always respected. It is the internal situation, the defects of Government, that attracts foreign contempt—that contempt, Sir, is too often followed by subjugation. Advert to the contemptuous manner in which a shrewd politician speaks of our Government. (Here his Excellency quoted a passage from Lord Sheffield, the purport of which was, that Great-Britain might engross our trade on her own terms: That the imbecility and inefficacy of our General Government were such, that it was impossible we could counteract her policy, however rigid or illiberal towards us, her commercial regulations might be.)<sup>17</sup>—Reflect but a moment on our situation. Does not it invite real hostility? The conduct of the British ministry to us, is the natural effect of our unnerved Government. Consider the commercial regulations between us and Maryland. Is it not known to Gentlemen, that this State and that have been making reprisals on each other; to obviate a repetition of which, in some degree, these regulations have been made:<sup>18</sup> Can we not see from this circumstance, the jealousy, rivalry, and hatred, that would subsist between them in case this State was out of the Union? They are importing States, and importing States will ever be competitors and rivals. Rhode-Island and Connecticut have been on the point of war, on the subject of their paper money<sup>19</sup>—Congress did not attempt to interpose.—When Massachusetts was distressed by the late insurrection, Congress could not relieve her. Who headed that insurrection? Recollect the facility with which it was raised, and the very little ability of the ring-leader, and you cannot but deplore the extreme debility of our merely nominal Government:<sup>20</sup> We are too despicable to be regarded by foreign nations. The defects of the Confederation consisted principally in the want of power. It had nominally powers, powers on paper, which it could not use. The power of making peace and war is expressly delegated to Congress; yet the power of granting passports, though within that of making peace and war, was considered by Virginia as belonging to herself.<sup>21</sup> Without adequate powers vested in Congress, America cannot be respectable in the eyes of other nations. Congress, Sir, ought to be fully vested with power to support the Union—protect the interest of the

United States—maintain their commerce—and defend them from external invasions and insults, and internal insurrections; to maintain justice, and promote harmony and public tranquillity among the States. A Government not vested with these powers will ever be found unable to make us happy or respectable: How far the Confederation is different from such a Government, is known to all America. Instead of being able to cherish and protect the States, it has been unable to defend itself against the encroachments made upon it by the States: Every one of them has conspired against it. Virginia as much as any. This fact could be proved by reference to actual history. I might quote the observations of an able modern author, not because he is decorated with the name of author, but because his sentiments are drawn from human nature, to prove the dangerous impolicy of withholding necessary powers from Congress: But I shall not at this time fatigue the House, but as little as possible. What are the powers of Congress? They have full authority to recommend what they please: This recommendatory power reduces them to the condition of poor supplicants. Consider the dignified language of the members of the American Congress. *May it please your High Mightinesses, of Virginia, to pay your just proportionate quota of our national debt: We humbly supplicate, that it may please you to comply with your federal duties! We implore, we beg your obedience!* Is not this, Sir, a fair representation of the powers of Congress? Their operations are of no validity, when counteracted by the States. Their authority to recommend is a mere mockery of Government. But the amendability of the Confederation seems to have great weight on the minds of some Gentlemen. To what point will the amendments go? What part makes the most important figure? What part deserves to be retained? In it, one body has the Legislative, Executive, and Judicial powers: But the want of efficient powers has prevented the dangers naturally consequent on the union of these. Is this union consistent with an augmentation of their power? Will you then amend it by taking away one of these three powers? Suppose for instance you only vested it with the Legislative and Executive powers, without any controul on the Judiciary, what must be the result? Are we not taught by reason, experience and governmental history, that tyranny is the natural and certain consequence of uniting these two powers, or the Legislative and Judicial powers, exclusively, in the same body? If any one denies it, I shall pass by him, as an infidel not to be reclaimed. Wherever any two of these three powers are vested in one single body, they must at one time or other terminate in the destruction of liberty. In the most important cases, the assent of nine States is necessary to pass a law: This is too great a restriction, and whatever good conse-

quences it may, in some cases, produce, yet it will prevent energy in many other cases; it will prevent energy, which is most necessary on some emergencies, even in cases wherein the existence of the community depends on vigor and expedition. It is incompatible with that secrecy, which is the life of execution and dispatch. Did ever thirty or forty men retain a secret? Without secrecy, no Government can carry on its operations on great occasions: This is what gives that superiority in action to the Government of one. If any thing were wanting to complete this farce, it would be, that a resolution of the Assembly of Virginia, and the other Legislatures, should be necessary to confirm and render of any validity the Congressional acts: This would openly discover the debility of the General Government to all the world. But in fact its imbecility is now nearly the same, as if such acts were formally requisite. An act of the Assembly of Virginia controverting a resolution of Congress, would certainly prevail. I therefore conclude, that the Confederation is too defective to deserve correction. Let us take farewell of it, with reverential respect, as an old benefactor. It is gone, whether this House says so, or not. It is gone, Sir, by its own weakness. I am afraid I have tired the patience of this House; but I trust you will pardon me, as I was urged by the importunity of the Gentleman [Patrick Henry], in calling for the reasons of laying the ground-work of this plan. It is objected by the Honorable Gentleman over the way (Mr. *George Mason*) that a republican Government is impracticable in an extensive territory, and the extent of the United States is urged as a reason for the rejection of this Constitution. Let us consider the definition of a republican Government, as laid down by a man who is highly esteemed. Montesquieu, so celebrated among politicians, says, "That a republican Government is that in which the body, or only a part of the people, is possessed of the supreme power; a monarchical, that in which a single person governs by fixed and established laws; a despotic Government, that in which a single person, without law, and without rule, directs every thing by his own will and caprice."<sup>22</sup> This author has not distinguished a republican Government from a monarchy, by the extent of its boundaries, but by the nature of its principles. He, in another place, contradistinguishes it, as a government of laws, in opposition to others which he denominates a government of men. The empire or Government of laws, according to that phrase, is that in which the laws are made with the free will of the people; hence then, if laws be made by the assent of the people, the Government may be deemed free. When laws are made with integrity, and executed with wisdom, the question is, whether a great extent of country will tend to abridge the liberty of the people. If defensive force



be necessary in proportion to the extent of country, I conceive that in a judiciously constructed Government, be the country ever so extensive, its inhabitants will be proportionably numerous and able to defend it. Extent of country, in my conception, ought to be no bar to the adoption of a good Government. No extent on earth seems to me too great, provided the laws be wisely made and executed. The principles of representation and responsibility, may pervade a large as well as a small territory; and tyranny is as easily introduced into a small as into a great district. If it be answered, that some of the most illustrious and distinguished authors, are of a contrary opinion, I reply, that authority has no weight with me till I am convinced—that not the dignity of names, but the force of reasoning gains my assent. I intended to have shewn the nature of the powers which ought to have been given to the general Government, and the reason of investing it with the power of taxation, but this would require more time than my strength, or the patience of the Committee, would now admit of. I shall conclude with a few observations which come from my heart. I have laboured for the continuance of the Union—the rock of our salvation. I believe, that as sure as there is a God in Heaven, our safety, our political happiness and existence, depend on the Union of the States; and that without this Union, the people of this and the other States, will undergo the unspeakable calamities, which discord, faction, turbulence, war, and bloodshed, have produced in other countries. The American spirit ought to be mixed with American pride—Pride to see the Union magnificently triumph. Let that glorious pride which once defied the British thunder, reanimate you again. Let it not be recorded of Americans, that after having performed the most gallant exploits, after having overcome the most astonishing difficulties, and after having gained the admiration of the world by their incomparable valor and policy, they lost their acquired reputation, their national consequence and happiness, by their own indiscretion. Let no future historian inform posterity, that they wanted wisdom and virtue to concur in any regular efficient Government. Should any writer, doomed to so disagreeable a task, feel the indignation of an honest historian, he would reprehend and recriminate our folly, with equal severity and justice. Catch the present moment—seize it with avidity and eagerness—for it may be lost—never to be regained. If the Union be now lost, I fear it will remain so forever. I believe Gentlemen are sincere in their opposition and actuated by pure motives: But when I maturely weigh the advantages of the Union, and dreadful consequences of its dissolution; when I see safety on my right, and destruction on my left; when I behold respectability and happiness acquired

by the one, but annihilated by the other, I cannot hesitate to decide in favor of the former. I hope my weakness, from speaking so long, will apologize for my leaving this subject in so mutilated a condition. If a further explanation be desired, I shall take the liberty to enter into it more fully another time.

Mr. *Madison* then arose (but he spoke so low that his exordium could not be heard distinctly.)—I shall not attempt to make impressions by any ardent professions of zeal for the public welfare: We know the principles of every man will, and ought to be judged, not by his professions and declarations, but by his conduct; by that criterion I mean in common with every other member to be judged; and should it prove unfavorable to my reputation, yet it is a criterion, from which I will by no means depart. Comparisons have been made between the friends of this Constitution, and those who oppose it: Although I disapprove of such comparisons, I trust, that in points of truth, honor, candour, and rectitude of motives, the friends of this system, here, and in the other States, are not inferior to its opponents.—But professions of attachment to the public good, and comparisons of parties, ought not to govern or influence us now. We ought, Sir, to examine the Constitution on its own merits solely: We are to enquire whether it will promote the public happiness;—its aptitude to produce this desirable object, ought to be the exclusive subject of our present researches. In this pursuit, we ought not to address our arguments to the feelings and passions, but to those understandings and judgments which were selected by the people of this country, to decide this great question, by a calm and rational investigation. I hope that Gentlemen, in displaying their abilities, on this occasion, instead of giving opinions, and making assertions, will condescend to prove and demonstrate, by a fair and regular discussion.—It gives me pain to hear Gentlemen continually distorting the natural construction of language; for, it is sufficient if any human production can stand a fair discussion. Before I proceed to make some additions to the reasons which have been adduced by my honorable friend over the way [Edmund Randolph], I must take the liberty to make some observations on what was said by another Gentleman, (Mr. *Henry*.) He told us, that this Constitution ought to be rejected, because it endangered the public liberty, in his opinion, in many instances. Give me leave to make one answer to that observation—Let the dangers which this system is supposed to be replete with, be clearly pointed out. If any dangerous and unnecessary powers be given to the general Legislature, let them be plainly demonstrated, and let us not rest satisfied with general assertions of dangers, without examination. If powers be necessary, apparent danger is not a sufficient

reason against conceding them. He has suggested, that licentiousness has seldom produced the loss of liberty; but that the tyranny of rulers has almost always effected it. Since the general civilization of mankind, I believe there are more instances of the abridgment of the freedom of the people, by gradual and silent encroachments of those in power, than by violent and sudden usurpations:—But on a candid examination of history, we shall find that turbulence, violence, and abuse of power, by the majority trampling on the rights of the minority, have produced factions and commotions, which, in republics, have more frequently than any other cause, produced despotism. If we go over the whole history of ancient and modern republics, we shall find their destruction to have generally resulted from those causes. If we consider the peculiar situation of the United States, and what are the sources of that diversity of sentiments which pervades its inhabitants, we shall find great danger, that the same causes may terminate here, in the same fatal effects, which they produced in those republics. This danger ought to be wisely guarded against: Perhaps in the progress of this discussion it will appear, that the only possible remedy for those evils, and means of preserving and protecting the principles of republicanism, will be found in that very system which is now exclaimed against as the parent of oppression. I must confess, I have not been able to find his usual consistency, in the Gentleman's arguments on this occasion:—He informs us that the people of this country are at perfect repose;—that every man enjoys the fruits of his labor, peaceably and securely, and that every thing is in perfect tranquillity and safety. I wish sincerely, Sir, this were true. If this be their happy situation, why has every State acknowledged the contrary? Why were deputies from all the States sent to the General Convention? Why have complaints of national and individual distresses been echoed and re-echoed throughout the Continent? Why has our General Government been so shamefully disgraced, and our Constitution violated? Wherefore have laws been made to authorise a change, and wherefore are we now assembled here? A Federal Government is formed for the protection of its individual members. Ours was attacked itself with impunity. Its authority has been disobeyed and despised. I think I perceive a glaring inconsistency in another of his arguments. He complains of this Constitution, because it requires the consent of at least three-fourths of the States to introduce amendments which shall be necessary for the happiness of the people. The assent of so many, he urges as too great an obstacle, to the admission of salutary amendments; which he strongly insists, ought to be at the will of a bare majority—We hear this argument, at the very moment we are called upon to assign reasons for proposing a

Constitution, which puts it in the power of nine States to abolish the present inadequate, unsafe, and pernicious Confederation! In the first case he asserts, that a majority ought to have the power of altering the Government when found to be inadequate to the security of public happiness. In the last case, he affirms, that even three-fourths of the community have not a right to alter a Government, which experience has proved to be subversive of national felicity! Nay, that the most necessary and urgent alterations cannot be made without the absolute unanimity of all the States. Does not the thirteenth article of the Confederation expressly require, that no alteration shall be made without the unanimous consent of all the States? Could any thing in theory, be more perniciously improvident and injudicious, than this submission of the will of the majority to the most trifling minority? Have not experience and practice actually manifested this theoretical inconvenience to be extremely impolitic? Let me mention one fact, which I conceive must carry conviction to the mind of any one—The smallest State in the Union has obstructed every attempt to reform the Government—That little member has repeatedly disobeyed and counteracted the general authority; nay, has even supplied the enemies of its country with provisions.<sup>23</sup> Twelve States had agreed to certain improvements which were proposed, being thought absolutely necessary to preserve the existence of the General Government; but as these improvements, though really indispensable, could not by the Confederation be introduced into it without the consent of every State; the refractory dissent of that little State prevented their adoption. The inconveniences resulting from this requisition, of unanimous concurrence in alterations in the Confederation, must be known to every member in this Convention; 'tis therefore needless to remind them of them. Is it not self-evident, that a trifling minority ought not to bind the majority? Would not foreign influence be exerted with facility over a small minority? Would the Honorable Gentleman agree to continue the most radical defects in the old system, because the petty State of Rhode-Island would not agree to remove them? He next objects to the exclusive legislation over the district where the seat of the Government may be fixed. Would he submit that the Representatives of this State should carry on their deliberations under the controul of any one member of the Union? If any State had the power of legislation over the place where Congress should fix the General Government; this would impair the dignity, and hazard the safety of Congress. If the safety of the Union were under the controul of any particular State, would not foreign corruption probably prevail in such a State, to induce it to exert its controuling influence over the members of

the General Government? Gentlemen cannot have forgotten the disgraceful insult which Congress received some years ago.<sup>24</sup> When we also reflect, that the previous cession of particular States is necessary, before Congress can legislate exclusively any where, we must, instead of being alarmed at this part, heartily approve of it. But the honorable member sees great danger in the provision concerning the militia: This I conceive to be an additional security to our liberty, without diminishing the power of the States, in any considerable degree—It appears to me so highly expedient, that I should imagine it would have found advocates even in the warmest friends of the present system: The authority of training the militia, and appointing the officers, is reserved to the States. Congress ought to have the power of establishing a uniform discipline through the States; and to provide for the execution of the laws, suppress insurrections, and repel invasions: These are the only cases wherein they can interfere with the militia; and the obvious necessity of their having power over them in these cases, must convince any reflecting mind. Without uniformity of discipline military bodies would be incapable of action:—Without a general controuling power to call forth the strength of the Union, to repel invasions, the country might be over-run and conquered by foreign enemies—Without such a power, to suppress insurrections, our liberties might be destroyed by domestic faction, and domestic tyranny be established.—The honorable member then told us, that there was no instance of power once transferred, being voluntarily renounced. Not to produce European examples, which may probably be done before the rising of this Convention; have we not seen already in seven States (and probably in an eighth State) Legislatures surrendering some of the most important powers they possessed? But, Sir, by this Government, powers are not given to any particular set of men—They are in the hands of the people—delegated to their Representatives chosen for short terms. To Representatives responsible to the people, and whose situation is perfectly similar to their own:—As long as this is the case we have no danger to apprehend. When the Gentleman called our recollection to the usual effects of the concession of powers, and imputed the loss of liberty generally to open tyranny, I wish he had gone on further. Upon a review of history he would have found, that the loss of liberty very often resulted from factions and divisions;—from local considerations, which eternally lead to quarrels—He would have found internal dissensions to have more frequently demolished civil liberty, than a tenacious disposition in rulers, to retain any stipulated powers. (Here Mr. *Madison* enumerated the various means whereby nations had lost their liberty.)—The power of raising and supporting armies is exclaimed

against, as dangerous and unnecessary. I wish there was no necessity of vesting this power in the General Government. But suppose a foreign nation to declare war against the United States, must not the general Legislature have the power of defending the United States? Ought it to be known to foreign nations, that the General Government of the United States of America has no power to raise or support an army, even in the utmost danger, when attacked by external enemies? Would not their knowledge of such a circumstance stimulate them to fall upon us? If, Sir, Congress be not invested with this power, any powerful nation, prompted by ambition or avarice, will be invited, by our weakness, to attack us; and such an attack, by disciplined veterans, would certainly be attended with success, when only opposed by irregular, undisciplined militia.—Whoever considers the peculiar situation of this country; the multiplicity of its excellent inlets and harbours, and the uncommon facility of attacking it, however much he may regret the necessity of such a power, cannot hesitate a moment in granting it. One fact may elucidate this argument. In the course of the late war, when the weak parts of the Union were exposed, and many States were in the most deplorable situation, by the enemy's ravages: The assistance of foreign nations was thought so urgently necessary for our protection, that the relinquishment of territorial advantages was not deemed too great a sacrifice for the acquisition of one ally. This expedient was admitted with great reluctance even by those States who expected most advantages from it. The crises however at length arrived, when it was judged necessary for the salvation of this country, to make certain cessions to Spain; whether wisely, or otherwise, is not for me to say; but the fact was, that instructions were sent to our Representative at the Court of Spain, to empower him to enter into negotiations for that purpose: How it terminated is well known.<sup>25</sup> This fact shews the extremities to which nations will recur in cases of imminent danger, and demonstrates the necessity of making ourselves more respectable. The necessity of making dangerous cessions, and of applying to foreign aid, ought to be excluded. The honorable member then told us, there are heart-burnings in the adopting States, and that Virginia may, if she does not come into the measure, continue in amicable confederacy with the adopting States. I wish as seldom as possible to contradict the assertions of Gentlemen, but I can venture to affirm, without danger of being in an error, that there is the most satisfactory evidence, that the satisfaction of those States is increasing every day, and that in that State where it was adopted only by a majority of nineteen, there is not one-fifth of the people dissatisfied.<sup>26</sup> There are some reasons which induce us to conclude, that the grounds of prose-

lytism extend every where—its principles begin to be better understood—and the inflammatory violence, wherewith it was opposed by designing, illiberal, and unthinking minds, begins to subside. I will not enumerate the causes from which, in my conception, the heart-burnings of a majority of its opposers have originated. Suffice it to say, (that in all) they were founded on a misconception of its nature and tendency. Had it been candidly examined, and fairly discussed, I believe, Sir, that but a very inconsiderable minority of the people of the United States would have opposed it. With respect to the Swiss, which the Honorable Gentleman has proposed for our example, as far as historical authority may be relied upon, we shall find their Government quite unworthy of our imitation. I am sure if the honorable member had adverted to their history and Government, he never would have quoted their example here: He would have found, that instead of respecting the rights of mankind, their Government (at least of several of their cantons) is one of the vilest aristocracies that ever was instituted: The (if) peasants (of some of their cantons) are more oppressed and degraded, than the subjects of any Monarch in Europe: Nay, (almost) as much so, as those of any Eastern despot. It is a novelty in politics, that from the worst of systems, the happiest consequences should ensue: Their aristocratical rigor, and the peculiarity of their situation, have so long supported their Union: Without the closest alliance and amity, dismemberment might follow: Their powerful and ambitious neighbours would immediately avail themselves of their least jarrings. As we are not circumstanced like them, no conclusive precedent can be drawn from their situation. I trust, the Gentleman does not carry his idea so far as to recommend a separation from the adopting States. This Government may secure our happiness; this is at least as probable, as that it shall be oppressive. If eight States have, from a persuasion of its policy and utility adopted it, shall Virginia shrink from it without a full conviction of its danger and inutility? I hope she will never shrink from any duty: I trust she will not determine without the most serious reflection and deliberation. I confess to you, Sir, were uniformity of religion to be introduced by this system, it would, in my opinion, be ineligible; but I have no reason to conclude, that uniformity of Government will produce that of religion. This subject is, for the honor of America, perfectly free and unshackled: The Government has no jurisdiction over it—The least reflection will convince us, there is no danger to be feared on this ground. But we are flattered with the probability of obtaining previous amendments. This calls for the most serious attention of this House. If amendments are to be proposed by one State, other States have the same right, and

will also propose alterations. These cannot but be dissimilar, and opposite in their nature. I beg leave to remark, that the Governments of the different States are in many respects dissimilar in their structure—Their Legislative bodies are not similar—Their Executives are more different. In several of the States the first Magistrate is elected by the people at large—In others, by joint ballot of the members of both branches of the Legislature—And in others, in other different manners. This dissimilarity has occasioned a diversity of opinion on the theory of Government, which will, without many reciprocal concessions, render a concurrence impossible. Although the appointment of an Executive Magistrate, has not been thought destructive to the principles of democracy in any of the States, yet, in the course of the debate, we find objections made to the Federal Executive: It is urged that the President will degenerate into a tyrant. I intended, in compliance with the call of the honorable member, to explain the reasons of proposing this Constitution, and develop its principles; but I shall postpone my remarks, till we hear the supplement which he has informed us, he intends to add to what he has already said. Give me leave to say something of the nature of the Government, and to shew that it is safe and just to vest it with the power of direct taxation. There are a number of opinions; but the principal question is, whether it be a federal or consolidated Government: In order to judge properly of the question before us, we must consider it minutely in its principal parts. I conceive myself, that it is of a mixed nature:—It is in a manner unprecedented: We cannot find one express example in the experience of the world:—It stands by itself. In some respects, it is a Government of a federal nature; in others it is of a consolidated nature. Even if we attend to the manner in which the Constitution is investigated, ratified, and made the act of the people of America, I can say, notwithstanding what the Honorable Gentleman has alledged, that this Government is not completely consolidated,—nor is it entirely federal. Who are parties to it? The people—but not the people as composing one great body—but the people as composing thirteen sovereignties: Were it as the Gentleman asserts, a consolidated Government, the assent of a majority of the people would be sufficient for its establishment, and as a majority have adopted it already, the remaining States would be bound by the act of the majority, even if they unan- imously reprobated it: Were it such a Government as it is suggested, it would be now binding on the people of this State, without having had the privilege of deliberating upon it: But, Sir, no State is bound by it, as it is, without its own consent. Should all the States adopt it, it will be then a Government established by the thirteen States of



America, not through the intervention of the Legislatures, but by the people at large. In this particular respect the distinction between the existing and proposed Governments is very material. The existing system has been derived from the dependent derivative authority of the Legislatures of the States; whereas this is derived from the superior power of the people. If we look at the manner in which alterations are to be made in it, the same idea is in some degree attended to. By the new system a majority of the States cannot introduce amendments; nor are all the States required for that purpose; three-fourths of them must concur in alterations; in this there is a departure from the federal idea. The members to the national House of Representatives are to be chosen by the people at large, in proportion to the numbers in the respective districts. When we come to the Senate, its members are elected by the States in their equal and political capacity; but had the Government been completely consolidated, the Senate would have been chosen by the people in their individual capacity, in the same manner as the members of the other House. Thus it is of a complicated nature, and this complication, I trust, will be found to exclude the evils of absolute consolidation, as well as of a mere confederacy. If Virginia were separated from all the States, her power and authority would extend to all cases: In like manner were all powers vested in the General Government, it would be a consolidated Government: But the powers of the Federal Government are enumerated; it can only operate in certain cases: It has Legislative powers on defined and limited objects, beyond which it cannot extend its jurisdiction. But the honorable member has satirized with peculiar acrimony, the powers given to the General Government by this Constitution. I conceive that the first question on this subject is, whether those powers be necessary; if they be, we are reduced to the dilemma of either submitting to the inconvenience, or, losing the Union. Let us consider the most important of these reprobated powers; that of direct taxation is most generally objected to: With respect to the exigencies of Government, there is no question but the most easy mode of providing for them will be adopted. When therefore direct taxes are not necessary, they will not be recurred to. It can be of little advantage to those in power to raise money in a manner oppressive to the people. To consult the conveniences of the people, will cost them nothing, and in many respects will be advantageous to them. Direct taxes will only be recurred to for great purposes. What has brought on other nations those immense debts, under the pressure of which many of them labour? Not the expences of their governments, but war. If this country should be engaged in war (and I conceive we ought to provide for the possibility

of such a case) how would it be carried on? By the usual means provided from year to year? As our imports will be necessary for the expences of Government, and other common exigencies, how are we to carry on the means of defence? How is it possible a war could be supported without money, or credit? And would it be possible for a Government to have credit, without having the power of raising money? No, it would be impossible for any Government in such a case to defend itself. Then, I say, Sir, that it is necessary to establish funds for extraordinary exigencies, and give this power to the General Government—for the utter inutility of previous requisitions on the States is too well known. Would it be possible for those countries whose finances and revenues are carried to the highest perfection, to carry on the operations of Government on great emergencies, such as the maintenance of a war, without an uncontroled power of raising money? Has it not been necessary for Great-Britain, notwithstanding the facility of the collection of her taxes, to have recourse very often to this and other extraordinary methods of procuring money? Would not her public credit have been ruined, if it was known that her power to raise money was limited? Has not France been obliged on great occasions to use unusual means to raise funds? It has been the case in many countries, and no Government can exist, unless its powers extend to make provisions for every contingency. If we were actually attacked by a powerful nation, and our General Government had not the power of raising money, but depended solely on requisitions, our condition would be truly deplorable:—If the revenue of this Commonwealth were to depend on twenty distinct authorities, it would be impossible for it to carry on its operations. This must be obvious to every member here: I think therefore, that it is necessary for the preservation of the Union, that this power should be given to the General Government:—But it is urged, that its consolidated nature, joined to the power of direct taxation, will give it a tendency to destroy all subordinate authority; that its increasing influence will speedily enable it to absorb the State Governments. I cannot think this will be the case. If the General Government were wholly independent of the Governments of the particular States, then indeed usurpation might be expected to the fullest extent: But, Sir, on whom does this General Government depend? It derives its authority from those Governments, and from the same sources from which their authority is derived. The members of the Federal Government are taken from the same men from whom those of the State Legislatures are taken. If we consider the mode in which the Federal Representatives will be chosen, we shall be convinced, that the general will never destroy the individual Gov-

ernments; and this conviction must be strengthened by an attention to the construction of the Senate.—The Representatives will be chosen, probably under the influence of the members of the State Legislatures; but there is not the least probability that the election of the latter will be influenced by the former. One hundred and sixty members represent this Commonwealth in one branch of the Legislature, are drawn from the people at large, and must ever possess more influence than the few men who will be elected to the General Legislature. The reasons offered on this subject, by a Gentleman on the same side (Mr. *Nicholas*) are unanswerable, and have been so full, that I shall add but little more on the subject. Those who wish to become Federal Representatives, must depend on their credit with that class of men who will be the most popular in their counties, who generally represent the people in the State Governments: They can, therefore, never succeed in any measure contrary to the wishes of those on whom they depend. It is almost certain, therefore, that the deliberations of the members of the Federal House of Representatives, will be directed to the interests of the people of America. As to the other branch, the Senators will be appointed by the Legislatures, and though elected for six years, I do not conceive they will so soon forget the source from which they derive their political existence. This election of one branch of the Federal, by the State Legislatures, secures an absolute dependence of the former on the latter. The biennial exclusion of one-third, will lessen the facility of a combination, and may put a stop to intrigues. I appeal to our past experience, whether they will attend to the interests of their constituent States. Have not those Gentlemen who have been honored with seats in Congress, *often signalized themselves by their attachment* to their States? I wish this government may answer the expectation of its friends, and foil the apprehensions of its enemies. I hope the patriotism of the people will continue, and be a sufficient guard to their liberties. I believe its tendency will be, that the State Governments will counteract the general interest, and ultimately prevail. The number of the Representatives is yet sufficient for our safety, and will gradually increase—and if we consider their different sources of information, the number will not appear too small.

Mr. *Nicholas*.—Mr. Chairman—If the resolution taken by the House, of going regularly through the system, clause by clause, had been followed, I should confine myself to one particular paragraph; but as, to my surprize, the debates have taken a different turn, I shall endeavor to go through the principal parts of the argument made use of by the Gentleman in opposition [Patrick Henry] to the proposed plan of Government. The worthy Gentleman entertained us very largely on the

impropriety and dangers of the powers given by this plan to the General Government; but his argument appears to me inconclusive and inaccurate; it amounts to this, that the powers given to any Government ought to be small. I believe this, Sir, is a new idea in politics—Powers being given for some certain purpose, they ought to be proportionate to that purpose, or else the end for which they are delegated, will not be answered. It is necessary to give powers to a certain extent, to any Government. If a due medium be not observed in the delegation of such powers, one of two things must happen—If they be too small, the Government must moulder and decay away—If too extensive, the people must be oppressed. As there can be no liberty without Government, it must be as dangerous to make powers too limited, as too great. He tells us, that the Constitution annihilates the Confederation. Did he not prove, that every people had a right to change their Government, when it should be deemed inadequate to their happiness? The Confederation being found utterly defective, will he deny our right to alter or abolish it? But he objects to the expression “we the people,” and demands the reason, why they had not said “we the United States of America?” In my opinion the expression is highly proper—It is submitted to the people, because on them it is to operate—Till adopted, it is but a dead letter, and not binding on any one—When adopted, it becomes binding on the people who adopt it. It is proper on another account. We are under great obligation to the Federal Convention, for recurring to the people, the source of all power. The Gentleman’s argument militates against himself; he says, that persons in power never relinquish their powers willingly: If then the State Legislatures would not relinquish part of the powers they now possess, to enable a General Government to support the Union, reference to the people is necessary. We are in the next place frightened by two sets of collectors, who, he tells us, will oppress us with impunity. The amount of the sums to be raised of the people is the same, whether the State Legislatures lay the taxes for themselves, and for the General Government; or whether each of them lays and collects taxes for its own exclusive purposes; the manner of raising it is only different. So far as the amount of the imposts may exceed that of the present collections, so much will the burdens of the people be less. Money cannot be raised in a more judicious manner, than by imposts—It is not felt by the people—It is a mode which is practised by many nations: Nine-tenths of the revenues of Great-Britain and France, are raised by indirect taxes; and were they raised by direct taxes, they would be exceedingly oppressive. At present, the reverse of this proposition holds in this country; for very little is raised by indirect taxes. The public treasuries

are supplied by means of direct taxes, which are not so easy for the people. But the people will be benefited by this change. Suppose the imposts will only operate a reduction of one-fifth of the public burdens: Then, Sir, out of every ten shillings we now have to pay, we shall only have to pay eight shillings; and suppose this to be apportioned so that we pay four shillings to the federal, and four shillings to the State collector, what inconvenience or oppression can arise from it? Would this be as oppressive as the payment of ten shillings to the State collector? Our constituents do not suspect our Delegates to the State Legislature, but we suspect the members of the future Congress. But, Sir, they tell us, that this power of direct taxation ought not to be entrusted to the General Government, because its members cannot be acquainted with the local situation of the people: Where do the members of the State Legislatures get their information? It is by their own experience, and intercourse with the people. Cannot those of the General Government derive information from every source from which the State Representatives get theirs, so as to enable them to impose taxes judiciously? We have the best security we can wish for: If they impose taxes on the people, which are oppressive, they subject themselves and their friends to the same inconvenience, and to the certainty of never being confided in again. And what will be the consequence of laying taxes on improper objects? Will the funds be increased by it? By no means: I may venture to say, the amount of the taxes will diminish in proportion to the difficulty and impropriety of the mode of levying them. What advantage then would it be to the members of Congress, to render the collection of taxes oppressive to the people? They would be certainly out of their senses to oppress the people, without any prospect of emolument to themselves. But another objection is made, which I never heard of before. The Gentleman has told us, that the number of Representatives may be reduced to one for every State. Is this a just surmise, even suppose it to have only said, that the number should not exceed one for every 30,000? Had it stopt there, any State, by his doctrine, might have no Representative at all! Is it possible that this interpretation could ever be thought of? For the worthy Gentleman has allowed it was not a natural construction. But the Constitution says, that representation and taxation should be in proportion to the number of the people, and that each State should at least have one Representative. What will be the consequence of this? Each State must pay its proportion of taxes; and its representation is to be equal to its taxes. I ask Gentlemen, if this be not a safe mode of representation? The Gentleman then told us, the Representatives would never wish their number to be increased. But, Sir, the

increase of their number will increase their importance: How will it affect their interest in elections? The greater their number, the greater their chance of re-election. It is a natural supposition, that every one of them will have the greatest interest with the people, in that part of his district where he resides: The more their number, the more districts will there be, and the greater certainty of their being re-elected; as it will be easier for them to have influence in small, than in large districts. But this power of direct taxes is not to be got over: The Gentleman will give every thing in alternative. What will be the consequence of these alternatives? It will lead Congress to have a contest with particular States: After refusal and opposition, what is to be done? Must force be used for the purpose? How is it to be procured? It would in a little time expend more money, than the sum which it was intended to procure; and the fatal consequences of such a scheme, provided it were practicable, are self-evident. I am astonished that Gentlemen should wish to put it on this footing, for the consequences would assuredly be, in the first place, a disappointment to Congress. Would this previous alternative diminish or retrench the powers of Congress, if ultimately, they are to have recourse to this power? One thing will be the certain consequence—Congress, in making requisitions, must reckon on a disappointment, and will therefore increase them according to the expected disappointment: By these means the burdens of the people must be enlarged. He then wonders that Gentlemen could come to so sudden a resolution of adopting it:—As to the time, it will require as much to reject as to adopt it, and if a deliberate discussion be the most rational mode of proceeding, a precipitate rejection will at least be as imprudent as a sudden adoption. He declares, that he would in despite of an erring world reject it, and wishes this State to continue in opposition. Were our country separated by nature from the other States, we might be safe without the Union: But as we are bordered on the adopting States, security can be found in Union only. Consider the consequences of disunion: Attend to the situation of those citizens who are contiguous to Maryland: Look at the country called the Northern Neck: if we reject the Constitution, will not its inhabitants shake off their dependance on us? But, Sir, the worthy member has declared as a reason for not changing our Government, that no terrors had been experienced, that no insurrections had happened among us. It was indeed a wonder that this was the case considering the relaxation of the laws. Tumults have happened in other States. Had it been attempted here by an enterprising adventurer, I believe he could hardly have been prevented by the laws; for I believe every citizen of this country has complained of their want of energy.

The worthy member has exclaimed with uncommon vehemence, against the mode provided for securing amendments. He thinks amendments can never be obtained, because so great a number is required to concur. Had it rested solely with Congress, there might have been danger. The Committee will see, that there is another mode provided, besides that which originates with Congress. On the application of the Legislatures of two-thirds of the several States, a Convention is to be called to propose amendments, which shall be part of the Constitution, when ratified by the Legislatures of three-fourths of the several States, or by Conventions in three-fourths thereof: It is natural to conclude that those States who will apply for calling the Convention, will concur in the ratification of the proposed amendments.—There are strong and cogent reasons operating on my mind, that the amendments which shall be agreed to by those States, will be sooner ratified by the rest, than any others that can be proposed. The Convention which shall be so called, will have their deliberations confined to a few points;—no local interests to divert their attention;—nothing but the necessary alterations.—They will have many advantages over the last Convention. No experiments to devise; the general and fundamental regulations being already laid down. He makes another objection, that contrary to the articles of our Bill of Rights, we may be taxed without our own consent.<sup>27</sup> That taxes may be imposed, although every member from Virginia should oppose the measure. This argument is not accurate. A tax imposed on the people of this State, by our Legislature, may be opposed by the members from the county of Albemarle, without being repugnant to our Bill of Rights; because Albemarle is represented, and the act of the majority is binding on the minority. In like manner, our privilege of representation in the Federal Government, will prevent any of the general laws from being unconstitutional, although contrary to the individual opinions of our Representatives. But it is complained, that they may suspend our laws. The suspension of the writ of *habeas corpus* is only to take place in cases of rebellion, or invasion. This is necessary in those cases—in every other case, Congress is restrained from suspending it.—In no other case can they suspend our laws—and this is a most estimable security. But the influence of New-England, and the other northern States is dreaded—There are apprehensions of their combining against us. Not to advert to the improbability and illiberality of this idea, it must be supposed, that our population will, in a short period, exceed theirs, as their country is well settled, and we have very extensive uncultivated tracts: We shall soon out number them in as great a degree as they do us at this time: Therefore this Government, which I trust will last to the remotest age, will be very

shortly in our favor. Treason consists in levying war against the United States, or in adhering to their enemies, giving them aid and comfort. The punishment of this well defined crime, is to be declared by Congress—No oppression therefore can arise on this ground—This security does away the objection, that the most grievous oppressions might happen under colour of punishing crimes against the General Government. The limitation of the forfeiture to the life of the criminal is also an additional privilege. We are next told, that there is wanting in this Government, that responsibility which has been the salvation of Great-Britain, although one half of the House of Commons purchase their seats. It has been already shewn, that we have much greater security from our Federal Representatives, than the people in England can boast. But the worthy member has found out a way of solving our difficulties. He tells us, that we have nothing to fear, if separated from the adopting States, but to send on our money and men to Congress. In that case can we receive the benefits of the Union? If we furnish money at all, it will be our proportionate share. The consequence will be, that we shall pay our share, without the privilege of being represented. So that to avoid the inconvenience of not having a sufficient number of Representatives, he would advise us to relinquish the number we are entitled to, and have none at all. I believe, Sir, there is a great and decided majority of the people in favor of the system; it is so in that part of the country wherein I reside. It is true, Sir, that many of the people have declared against a Government, which they were told destroyed the trial by jury; against a Government, Sir, which established a standing army; against a Government, which abridged the liberty of the press; against a Government, which would tax all their property from them; against a Government, which infringed the rights of conscience, and against a Government, Sir, which should banish them to France to be common soldiers, and which should eventually destroy all their rights and privileges. This, Sir, is the Government of which they have given their disapprobation: Still, Sir, a majority have considered this Government in a different light, and have given their approbation of it. I believe, Sir, that on a fair and candid investigation, very few would oppose it. Those who think that the evils I have enumerated will result from it, exceed me in point of credulity.

The Committee then rose—And on motion, *Resolved*, That this Convention will, to-morrow, again resolve itself into a Committee of the whole Convention, to take into farther consideration, the proposed Constitution of Government.

And then the Convention adjourned until to-morrow morning ten o'clock.



1. This day's minutes were printed in the *Virginia Independent Chronicle* on 11 June (Mfm:Va.) and reprinted in the *Pennsylvania Journal* on the 21st. An excerpt appeared in the *Norfolk and Portsmouth Journal* on the 18th. One individual reported that Edmund Randolph, Patrick Henry, James Madison, and George Nicholas all gave long speeches; "some of them were on their feet upwards of two hours, & not one of them so short a time as one" (quoted in James Duncanson to James Maury, 7, 13 June, V below. See also note 3, below).

2. For the manuscript version of this report, see Mfm:Va., and for Stith's petition, see Brunswick County Election (II above).

3. Commenting on this speech, the anonymous writer of an extract of a Richmond letter, dated 6 June, stated: "The governor has declared he will support the Constitution—he spoke for three hours to-day before he sat down" (*Pennsylvania Packet*, 13 June).

4. Randolph resigned as governor on 12 November 1788 and was immediately elected to represent Williamsburg in the House of Delegates.

5. Between 1775 and 1778, Josiah Philips, a Princess Anne County laborer, led a group of bandits that terrorized southeastern Virginia. In June 1777, Governor Patrick Henry issued a proclamation offering a reward for Philips' capture. In the spring of 1778, Philips reportedly led an insurrection that the militia was unable to suppress. On 27 May, Henry submitted the matter to the legislature, and on the 28th, the House of Delegates passed a resolution calling for the attainder for treason of Philips and his men if they did not surrender by a certain day. It also appointed a committee, headed by Thomas Jefferson, to draft a bill of attainder. The same day, Jefferson reported a bill of attainder (probably drafted by him) that was read for the first time. The bill was read a second time on the 29th and a third time on the 30th. (As clerk of the House, Edmund Randolph docketed this bill.) On the 30th, the Senate approved it. The act provided that unless Philips and his men surrendered by 30 June 1778, they "shall stand and be convicted and attainted of high treason, and shall suffer the pains of death, and incur all forfeitures, penalties and disabilities, prescribed by the law against those convicted and attainted of high treason." Early in June, before the attainder became effective, Philips was captured and imprisoned. Between 16 and 21 October, Philips and some of his followers were tried and convicted by the General Court. They were later executed (Boyd, II, 189–93; and Hening IX, 463–64).

According to St. George Tucker, in his edition of William Blackstone's *Commentaries on the Laws of England* (1803), the judges did not apply the act of attainder, but put Philips on trial "according to the ordinary course of law." In 1815, Jefferson said that Philips was tried for robbery under the common law. The decision to try Philips for robbery, Jefferson declared, was made by Attorney General Edmund Randolph. Randolph made such a decision because he believed Philips would plead that he was a British subject captured while under arms to his sovereign and that, as a prisoner of war, he was protected by the law of nations. Although an act of attainder was not specifically prohibited by the state's Declaration of Rights, it violated the spirit of the due process provisions of Article 8 of the Declaration (*ibid.*, 191n; and Leonard W. Levy, *Jefferson and Civil Liberties: The Darker Side* [Cambridge, Mass., 1963], 33–41. For Article 8 of the Declaration of Rights, see RCS:Va., 531.).

6. Randolph refers to Abraham Stanyan, *An Account of Switzerland. Written in the Year 1714* (London, 1714).

7. See Convention Debates, 9 June, note 11 (below).

8. The Maryland charter of 1632 fixed that colony's southern border on "the further Bank" of the Potomac River, putting the river entirely within Maryland's jurisdiction (Thorpe, III, 1678). The patents for the Northern Neck proprietorship, issued in the 17th century, placed the Potomac within Virginia, and in 1776 the Virginia constitution ceded to Maryland "all the territories contained within its charter with all the rights of property, jurisdiction and Government and all other rights whatsoever, which might at any

time have been claimed by Virginia, excepting *only the free navigation & use of the Rivers Potowmac & Pokomoque &c.*" (quoted, although not exactly, by James Madison in a letter to Thomas Jefferson, dated 16 March 1784 [Rutland, *Madison*, VIII, 10]. The italics are Madison's. For the exact wording in the text of the constitution, see RCS:Va., 537.). Maryland and Virginia did not actively dispute the jurisdiction of the river until after the break with Great Britain when a number of controversies concerning the Potomac arose. In 1785 the two states resolved their differences at the Mount Vernon Conference. The Mount Vernon Compact, which both states ratified, provided that the Potomac River "shall be considered as a common High Way, for the purpose of Navigation and Commerce to the Citizens of Virginia and Maryland and of the United States and to all other Persons in amity with the said States trading to or from Virginia or Maryland" (Rutland, *Mason*, II, 818). If Virginia seceded from the Union, the compact might be voided and the inhabitants of the Northern Neck might be cut off from the free navigation of the river because of its disputed jurisdiction. If Maryland's claim were upheld, the jurisdiction of the Potomac would fall to the central government under the new Constitution. Therefore, the inhabitants of the Northern Neck, who were economically dependent on the Potomac, might secede from Virginia and join the Union as part of Maryland, which had already ratified the Constitution.

9. For a boundary dispute between Virginia and Pennsylvania that was settled in 1779, see "A Native of Virginia," 2 April, note 27 (III above).

10. Randolph had Kentucky in mind. In 1786 the Virginia legislature passed two enabling acts providing for Kentucky statehood, if the people of that district, meeting in convention, were agreeable. In September 1787, a convention meeting in Danville approved the second enabling act and fixed 31 December 1788 as the date when Virginia's authority would end. On 29 February 1788, the Virginia delegates to Congress submitted an address from "the people of Kentucky in convention" and moved that Congress approve the "Compact" between Virginia and Kentucky for making the District of Kentucky a separate state. (For the action taken by Congress, see RCS:Va., 330n-31n.)

11. See Convention Debates, 4 June, note 18 (above).

12. See note 9 (above).

13. On 18 March 1780, the Continental Congress set the value of Continental paper money at the rate of one Spanish-milled dollar to forty dollars (JCC, XVI, 264).

14. For the percentage of requisitions that Virginia owed on 31 March 1788, see "The State Soldier" V, 2 April, note 3 (III above).

15. In the summer of 1780, a low point for Americans during the Revolution, John Mathews of South Carolina moved in Congress that Commander in Chief George Washington be given absolute power to raise and equip an army and to draw on the treasury for the money that he needed. Congress was to accept whatever he did. Congress refused to submit the motion to committee and a number of delegates severely censured Mathews.

16. See Convention Debates, 4 June (RCS:Va., 931-36).

17. See John Lord Sheffield, *Observations on the Commerce of the American States. A New Edition Much Enlarged*. . . (London, 1784), 198-200. Sheffield's work was first printed in London in 1783 and reprinted the same year in Philadelphia.

18. Randolph probably refers to the Mount Vernon Conference in which Virginia and Maryland resolved some of their commercial differences (note 8, above).

19. In March 1787 the Rhode Island legislature, disturbed that non-residents were using the legal tender provisions of the paper-money act of May 1786, resolved that judges return any Rhode Island paper money received from an out-of-state debtor in payment to a Rhode Island creditor. In retaliation for this "open and direct violation of the principles of justice, and of the articles of confederation," the Connecticut House of Representatives debated a bill that would have made liquidated state securities legal tender in payment of debts owed by inhabitants of Connecticut to Rhode Islanders. The

bill was defeated on 7 June 1787, but a remonstrance was sent to Congress and Rhode Island condemning the latter's paper-money policies (*Connecticut Courant*, 18 June). (See CC:Vol. 2, 135n-36n.) In its January 1789 session, the Connecticut legislature finally adopted a measure that prevented Rhode Islanders from collecting debts in Connecticut courts until Rhode Island repealed its discriminatory law against non-residents. The Connecticut act was repealed in 1790, after Rhode Island ratified the Constitution.

20. For Shays's Rebellion (1786-87), see CC:18.

21. For the issue of passports, see Convention Debates, 4 June, note 19 (above).

22. *Spirit of Laws*, I, Book II, chapter I, 11.

23. See Convention Debates, 4 June, note 18 (above).

24. In June 1783, soldiers of the Pennsylvania Line of the Continental Army demonstrated outside the meeting place of Congress in Philadelphia because Congress had furloughed them without settling their financial accounts. Congress asked the Supreme Executive Council of Pennsylvania to call out the militia, but the Council was reluctant. Congress discussed the matter for several days, and then, for safety's sake, adjourned to Princeton, N.J.

25. In 1780 John Jay was in Spain trying to negotiate an alliance. One of the obstacles to such an agreement was the American insistence on its right to navigate the Mississippi River, a right which Spain refused to recognize. On 15 February 1781, Congress changed Jay's instructions allowing him to give up the American demand to free navigation. Despite this concession, the United States was unable to conclude an alliance with Spain. The Treaty of Peace of 1783 gave the United States the right to navigate the Mississippi. (Spain's consent to this treaty provision was not requested, but it agreed to the treaty anyway.) In 1784, however, Spain closed the navigation of the Mississippi to Americans.

(The Convention delegates discussed the question of the free navigation of the Mississippi River at length on 12 and 13 June, below. See those debates and the notes thereto for considerable detail on the history of the negotiations with Spain and Virginia's interest in the Mississippi. On these subjects, see also RCS:Va., xxix-xxx; and CC:46.)

26. On 24 May, the *Massachusetts Centinel* reported that more than four-fifths of the inhabitants of Massachusetts (whose convention ratified by a vote of 187 to 168) now supported the Constitution. The next day, Rufus King in New York, about to leave for Boston, wrote Madison that "a very large majority of the People of Mass.:" supported the Constitution and that in the spring election for governor, the Antifederalist candidate (Elbridge Gerry) had only one-fifth of the vote, while the incumbent John Hancock, who had the support of Federalists, received four-fifths (Rutland, *Madison*, XI, 57).

27. The sixth article of the Declaration of Rights provided "that all men, having sufficient evidence of permanent common interest with, and attachment to, the community, have the right of suffrage, and cannot be taxed or deprived of their property for publick uses without their own consent, or that of their representatives so elected . . ." (RCS:Va., 530-31).

## The Virginia Convention Saturday 7 June 1788

### Debates<sup>1</sup>

Mr. *Wythe* reported from the Committee of Privileges and Elections, that the Committee had, according to order, had under their consideration, the petition of Richard Morris, complaining of an undue elec-

tion and return of Mr. William White, as a Delegate to serve in this Convention for the county of Louisa, and had come to several resolutions thereupon, which he read in his place, and afterwards delivered in at the clerk's table, where the same were again severally twice read, and agreed to by the House, as followeth:

*Resolved, That it is the opinion of this Committee,* That the petitioner do, either by himself, or his agent, within two days, deliver to the sitting member, or his agent, lists of the persons intended by the petitioner to be objected to, who voted for the sitting member, giving in the said lists the several heads of objections, and distinguishing the same against the names of the votes objected to; and that the sitting member do, by himself, or his agent, on or before the 16th day of this instant, (June) deliver the like lists, on his part, to the petitioner, or his agent.

*Resolved, that it is the opinion of this Committee,* That the depositions of the witnesses, as well on behalf of the petitioner as the sitting member, be taken before Nelson Anderson, Waddy Thompson, and Charles Yancey, Gentlemen, and Thomas Johnson, the sheriff of the said county of Louisa, or any three of them.

*Resolved, That it is the opinion of this Committee,* That the further consideration of the said petition be deferred until Wednesday the 18th of this instant, (June.)<sup>2</sup>

The Convention then, according to the order of the day, resolved itself into a Committee of the whole Convention, to take into farther consideration the proposed plan of Government.—Mr. *Wythe* in the chair.

*(The first and second sections still under consideration.)*

Mr. *Corbin*.—Mr. Chairman—Permit me to make a few observations on this great question. It is with great difficulty I prevail on myself to enter into the debate, when I consider the great abilities of those Gentlemen who have already spoken on the subject. But as I am urged by my duty to my constituents, and as I conceive that the different manner of treating the subject, may make different impressions; I shall offer my observations with diffident respect, but with firmness and independence. I will premise my acknowledgments to those Honorable Gentlemen, who were in the Federal Convention, for the able and satisfactory manner in which they discharged their duty to their country. The introductory expression of "We the people," has been thought improper by the Honorable Gentleman [Patrick Henry]—I expected no such objection as this. Ought not the people, Sir, to judge of that Government, whereby they are to be ruled? We are, Sir, deliberating on a question of great consequence to the people of America, and to

the world in general. We ought therefore to decide with extreme caution and circumspection: It is incumbent upon us to proceed without prejudice, or prepossession. No member of the Committee entertains a greater regard, than myself, for the Gentleman, on the other side, who has placed himself in the front of opposition (Mr. *Henry*.) No man admires more than I do, his declamatory talents: But I trust, that neither declamation, nor elegance of periods, will mislead the judgment of any member here, and that nothing but the force of reasoning will operate conviction. He has asked, with an air of triumph, whether the Confederation was not adequate to the purposes of the Federal Government: Permit me to say, *No*. If, Sir, perfection existed in that system, why was the Federal Convention called? Why did every State except Rhode-Island, send deputies to that Convention? Was it not from a persuasion of its inefficacy? If this be not sufficient to convince him, let me call the recollection of the Honorable Gentleman to other circumstances; let him go into the interior parts of the country, and enquire into the situation of the farmers. He will be told, that tobacco and other produce, are miserably low, merchandize dear, and taxes high: Let him go through the United States, he will perceive appearances of ruin and decay every where. Let him visit the sea coast—go to our ports and inlets. In those ports, Sir, where we had every reason to see the fleets of all nations, he will behold but a few trifling little boats—He will every where see commerce languish:—The disconsolate merchant, with his arms folded, ruminating in despair, on the wretched ruins of his fortune, and deploring the impossibility of retrieving it. The West-Indies are blocked up against us. Not the British only, but other nations exclude us from those islands—Our fur trade gone to Canada—British centinels within our own territories—Our posts withheld:—To these distresses, we may add the derangement of our finances: Yet the Honorable Gentleman tells us, they are not sufficient to justify so radical a change. Does he know the consequences of deranged finances? What confusions, disorders, and even revolutions, have resulted from this cause in many nations? Look at France at this time—That kingdom is almost convulsed—Ministers of State, and first Princes of the blood, banished—Manufacturers and merchants become bankrupts, and the people discontented:—All owing to the derangement of their finances. The Honorable Gentleman must be well acquainted with the debts due by the United States, and how much is due to foreign nations. Have not the payment of these been shamefully withheld? How long, Sir, shall we be able, by fair promises, to satisfy those creditors? How long can we amuse, by idle words, those who are amply possessed of the means of doing themselves justice? No part

of the principal is paid to those nations—Nor has even the interest been paid as honorably and punctually as it ought.—Nay, we were obliged to borrow money last year to pay the interest!<sup>3</sup> What?—Borrow money to discharge the interest of what was borrowed, and continually augment the amount of the public debt! Such a plan would destroy the richest country on earth. What is to be done? Compel the delinquent States to pay requisitions to Congress? How are they to be compelled? By the instrumentality of such a scheme as was proposed to be introduced in the year 1784?<sup>(a) 4</sup> Is this cruel mode of compulsion eligible? Is it consistent with the spirit of republicanism? This savage mode, which could be made use of under the confederation, leads directly to civil war and destruction. How different is this from the genius of the proposed Constitution? By this proposed plan, the public money is to be collected by mild and gentle means; by a peaceable and friendly application to the individuals of the community. Whereas by the other scheme, the public treasury must be supplied through the medium of the sword—by desolation and murder—by the blood of the citizens. Yet we are told, there is too much energy in this system: Coercion is necessary in every Government. Justice, Sir, cannot be done without it. It is more necessary in Federal Governments than any other, because of the natural imbecility of such Governments. The Honorable Gentleman is possessed of much historical knowledge—I appeal to that knowledge therefore. Will he not agree, that there was a coercive power in the Federal Government of the Amphycionics? The coercive power of the Amphycionic Council was so great, as to enable it to punish disobedience and refractory behavior in the most severe manner. Is there not an instance of its carrying fire and sword through the territories, and levelling to the ground the towns of those who disobeyed it? (Here Mr. *Corbin* mentions particular instances.)—Is there no coercion in the Germanic body? This body, though composed of 300 different component sovereignties, principalities and cities, and divided into nine circles, is controuled by one superintending power, the Emperor. Is there no coercive power in the confederate Government of the Swiss? In the alliance between them and France there is a provision, whereby the latter is to interpose and settle differences that may arise among them; and this interposition has been more than once used. Is there none in Holland? What is the Stadholder? This power is necessary in all Governments—A superintending coercive power is absolutely indispensable. This does not exist under the present articles of Confederation. To vest it with such a power, on its present construction, without any alteration, would be extremely dangerous, and might lead to civil war. Gentlemen must, before this,

have been convinced of the necessity of an alteration. Our state-vessel has sprung a-leak—We must embark in a new bottom, or sink into perdition. The Honorable Gentleman has objected to the Constitution, on the old worn out idea, that a republican Government is best calculated for a small territory. If a republic, Sir, cannot be accommodated to an extensive country, let me ask, how small must a country be to suit the genius of republicanism? In what particular extent of country can a republican Government exist? If contracted into as small a compass as you please, it must labour under many disadvantages. Too small an extent will render a republic weak, vulnerable, and contemptible.—Liberty, in such a petty State, must be on a precarious footing;—its existence must depend on the philanthropy and good nature of its neighbours. Too large an extent, it is said, will produce confusion and tyranny. What has been so often deprecated will be removed by this plan. The extent of the United States cannot render this Government oppressive. The powers of the General Government are only of a general nature; and their object is to protect, defend, and strengthen the United States: But the internal administration of Government is left to the State Legislatures, who exclusively retain such powers as will give the States the advantages of small republics, without the danger commonly attendant on the weakness of such Governments. There are controversies even about the name of this Government. It is denominated by some a Federal, by others, a Consolidated Government. The definition given of it by my honorable friend (Mr. *Madison*) is, in my opinion, accurate. Let me, however, call it by another name, a Representative Federal Republic, as contradistinguished from a Confederacy. The former is more wisely constructed than the latter—It places the remedy in the hands which *feel* the disorder—The other places the remedy in those hands which *cause* the disorder. The evils that are most complained of in such Governments (and with justice) are faction, dissension, and consequent subjection of the minority, to the caprice and arbitrary decisions of the majority, who, instead of consulting the interest of the whole community collectively, attend sometimes to partial and local advantages. To avoid this evil, is perhaps the great *desiderata* of republican wisdom; it may be termed the Philosopher's stone. Yet, Sir, this evil will be avoided by this Constitution: Faction will be removed by the system now under consideration, because all the causes which are generally productive of faction are removed. This evil does not take its flight entirely: For were jealousies and divisions entirely at an end, it might produce such lethargy, as would ultimately terminate in the destruction of liberty; to the preservation of which, watchfulness is absolutely necessary. It

is transferred from the State Legislatures to Congress, where it will be more easily controuled. Faction will decrease in proportion to the diminution of counsellors. It is much easier to controul it in small, than in large bodies. Our State Legislature consists of upwards of 160, which is a greater number than Congress will consist of at first. Will not more concord and unanimity exist in one, than in thirteen such bodies? Faction will more probably decrease, or be entirely removed, if the interest of a nation be entirely concentrated, than if entirely diversified. If thirteen men agree, there will be no faction. Yet if of opposite, and of heterogeneous dispositions, it is impossible that a majority of such clashing minds can ever concur to oppress the minority. It is impossible that this Government, which will make us one people, will have a tendency to assimilate our situations; and is admirably calculated to produce harmony and unanimity, can ever admit of an oppressive combination, by one part of the Union against the other. A Confederate Government is of all others best calculated for an extensive country. Its component individual Governments, administer and afford all the local conveniences, that the most compact Governments can do; and the strength and energy of the confederacy may be equal to those of any Government. A Government of this kind may extend to all the Western world: Nay, I may say, *ad infinitum*. But it is needless to dwell any longer on this subject, for the objection that an extensive territory is repugnant to a republican Government, applies against this and every State in the Union, except Delaware and Rhode-Island. Were the objection well founded, a republican Government could exist in none of the States except those two. Such an argument goes to the dissolution of the Union, and its absurdity is demonstrated by our own experience. But an objection is urged against this Government, because of its power of laying direct taxes. Let me ask the Honorable Gentleman who opposes it on this ground, if he reflects whether this power be indispensable or not? Sir, if it be not vested with the power of commanding all the resources of the States when necessary, it will be trifling. Wars are as much (and more) carried on by the length of the purse, as by that of the sword. They cannot be carried on without money. Unless this power be given to Congress, foreign nations may crush you. The concession of this power is necessary to do Virginia justice, by compelling the delinquent States to pay as well as her: While she paid her quotas, and her citizens were much distressed to pay their taxes, other States most shamefully neglected, or refused, to pay their proportions. I trust Gentlemen need not be alarmed on the subject of taxation, nor intimidated by the idea of double collectors, who they tell us will oppress and ruin the people.



From an attention to our situation we shall see that this mode of levying money, though indispensably necessary on great emergencies, will be but seldom recurred to. Let us attend to the finances of this country.—(Mr. *Corbin* then stated the probable annual amount of duties on imported articles, throughout the Continent, including West-India produce, which, he said, from the best calculation he could procure, would exceed the annual expences of the administration of the General Government, including the civil list, contingent charges, and the interest of the foreign and domestic debts, by 80 or 90,000 pounds; which, he said, would enable the United States to discharge, in a few years, the principal debts due to foreign nations: That in the course of thirty years that surplus would enable the United States to perform the most splendid enterprises. He then concluded, that no danger was to be apprehended from the power of direct taxation, since there was every reason to believe it would be very seldom used. He then made an estimate of the state debt, and clearly proved, that with œconomical regulations, all the demands of the internal administration of Government would be paid with facility and ease from the different resources of the State; and that there would also be a considerable surplus, which with prudence and œconomy might answer many valuable purposes.)—Mr. *Corbin* then continued as follows: The Honorable Gentleman [Patrick Henry] declared, in the most solemn manner, that if he could see one single trait in that Government to secure liberty, he would not object to it. I meet him on this ground. Liberty is secured, Sir, by the limitation of its powers; which are clearly and unequivocally defined, and which are to be exercised by our own Representatives freely chosen. What power is given that will endanger liberty? I consider all the traits of this system, as having a tendency to the security of public liberty. I consider all its powers necessary, and only given to avoid greater evils; and if this conclusion of mine be well founded, let me ask, if public liberty is not secured by bars and adamant bolts? Secured by the strongest guards and checks which human ingenuity can invent. Will this dreaded power of taxation render liberty insecure? Sir, without this power, other powers will answer no purpose. Governments cannot exist without the means of procuring money. My honorable friend told us, he considered this clause as the vitals of that Constitution. I will change the phrase, and say, that I consider this part as the lungs of the Constitution. If it be sick, the whole system is consumptive, and must soon decay: And this power can never be dangerous if the principles of equal and free representation be fully attended to. While the right of suffrage is secured, we have little to fear. This Government, Sir, does fully secure us this noble privilege,

on the purest and simplest principles of equality. That number, which in any one part of the country, has a right to send a Representative, has the same right in another part. What does the Constitution say? That 30,000 shall have one Representative—No matter where. If this be not equal representation, what, in the name of God, is equal representation? But says the Honorable Gentleman [Patrick Henry], the Constitution may be satisfied by one from each State. I conceive there is no fear of this. There is not a power to diminish the number. Does it not say, that Representatives shall be apportioned according to the number of the people, and that direct taxes shall be regulated by the same rule? Virginia in the first instance will have ten times as many as Delaware, and afterwards in proportion to her numbers. What is the criterion of representation? Do the people wish land only to be represented? They have their wish: For the qualifications which the laws of the States require to entitle a man to vote for a State Representative, are the qualifications required by this plan, to vote for a Representative to Congress; and in this State, and most of the others, the possession of a freehold is necessary to entitle a man to the privilege of a vote. Do they wish persons to be represented? Here also they are indulged: For the number of Representatives is determined by the number of people: This idea is so well attended to, that even three-fifths of those who are not free, are included among those of whom 30,000 shall have a right to elect one Representative; so that in either point of view their wish is gratified. Is not liberty secured on this foundation? If it be not secured by the one or the other mode, or by both, I am totally without reason. Liberty seems intrenched on this ground. But the Gentleman objects, that the number is not sufficient. My opinion, with deference to that Gentleman, and others who may be of a different opinion from me, is, that it is fully sufficient. Being delegated solely for general purposes, a few intelligent men will suffice: At least one for every 30,000, aided by the Senate, seem sufficient. Are combinations, or factions, so often formed in small as in numerous bodies? Are laws better made in large, than in small assemblies? Is not the influence of popular declaimers less in small, than in great bodies? Would not a more numerous representation be very expensive? Is œconomy of no consideration? We ought, Sir, to attend to the situation of the people: and our measures should be as œconomical as possible, without extending, however, our parsimony to a dangerous length. Objections should be founded on just and real grounds, and ought not to be urged out of mere obstinacy! Besides, it is by no means certain that a very numerous body is more independent, or upright, than a small one. Why should the number of our

Representatives be greater Mr. Chairman? The county of Middlesex, in England, which includes the cities of London and Westminster, contains upwards of 990,000 souls, and yet sends to Parliament no more than eight members. Among all the clamors of the people there, it never entered into the brain of any one of them, that those eight were not enough. They complain, that the boroughs of old Sarum, Newton, and Gotton, and other such places, should send each two members to Parliament, although without houses or inhabitants, while the richest city sent but four. They also complain of the influence of the landed interest in some cases; that the county of Cornwall sends 40 members to Parliament, although it pays but 18 parts out of 513, to the subsidy and land tax, when the county of Middlesex, which is calculated to pay 250 parts out of 513, sends but eight members. In that country it has been uniformly found, that those members, who are chosen by numerous respectable electors, make the greatest opposition to oppression and corruption, and signalize themselves for the preservation of liberty. The collective body of the Commons there have generally exerted themselves in the defence of freedom, and have been successful in their exertions, notwithstanding the inequality of their election. Our Representatives are chosen in the fairest manner—Their election is founded in absolute equality. Is the American spirit so degenerated, notwithstanding these advantages, that the love of liberty is more predominant and warm in the breast of a Briton, than in that of an American? When liberty is on a more solid foundation here than in Britain, will Americans be less ready to maintain and defend it than Britons? No, Sir,—The spirit of liberty and independence of the people of this country at present, is such, that they could not be enslaved under any Government that could be described. What danger is there then to be apprehended from a Government which is theoretically perfect, and the possible blemishes of which can be only demonstrated by actual experience? The Honorable Gentleman then urges an objection respecting the militia, who, he tells us, will be made the instruments of tyranny to deprive us of our liberty. Your militia, says he, will fight against you. Who are the militia? Are we not militia? Shall we fight against ourselves? No, Sir—The idea is absurd. We are also terrified with the dread of a standing army. It cannot be denied, that we ought to have the means of defence, and be able to repel an attack. If some of the community are exclusively inured to its defence, and the rest attend to agriculture, the consequence will be, that the arts of war and defence, and of cultivating the soil, will be understood. Agriculture will flourish, and military discipline will be perfect. If on the contrary, our defence be solely trusted to militia, ignorance of

arms, and negligence of farming, will ensue: The former plan is, in every respect, more to the interest of the State—By it we shall have good farmers and soldiers—By the latter we shall have neither. If the inhabitants be called out on sudden emergencies of war, their crops, the means of their subsistence, may be destroyed by it. If they are called in the time of sowing seed, or of harvest, the means of subsistence might be lost; and the loss of one year's crop might have been prevented by a trivial expence, if appropriated to the purpose of supporting a part of the community, exclusively occupied in the defence of the whole. I conceive that this idea, if it be a new one, is yet founded on solid and very substantial reasons. But, Sir, we are told of the expediency and propriety of previous amendments. What end would it answer to attempt it? Will the States which have adopted the Constitution, rescind their adopting resolutions? Had we adopted it, would we recede from it to please the caprice of any other State? Pride, Sir, revolts at the idea. Admitting this State proposes amendments previous to her adoption, must there not be another Federal Convention? Must there not be also a Convention in each State? Suppose some of our proposed conditions to be rejected, will not our exclusion out of the Union be the consequence? Or, would other Conventions again be called? And would we be eternally revolving and devising expedients, without coming to a final decision? The loss of the Union, Sir, must be the result of a pertinacious demand of precedent conditions. My idea is, that we should go hand in hand with Massachusetts; adopt it first, and then propose amendments of a general nature, for local ones cannot be expected.<sup>5</sup> Consider the situation of Massachusetts, commanding the North; and the importance and respectability of Virginia to the South: These, Sir, are the two most populous, wealthy, and powerful States in the Union. Is it not very probable their influence would have very great weight in carrying any amendments? Would any Gentleman turn a deaf ear to their solicitations? By Union alone we can exist—By no other means can we be happy. Union must be the object of every Gentleman here. I never yet have heard any Gentleman so wild and frantic in his opposition, as to avow an attachment to partial confederacies. By previous adoption, the Union will be preserved: By insisting on alterations previous to our adoption, the Union may be lost, and our political happiness destroyed by internal dissensions. I trust, therefore, that this Convention, after deliberate discussion, will not hesitate to determine on a previous ratification, of a system, which, even in its present form, seems competent to the perpetual preservation of our security and happiness.

Mr. *Henry* then arose, and expressed a desire, that the Honorable Gentleman on the other side (Governor *Randolph*) should continue his observations on the subject he had left unfinished the day before: That he had before, and would now, give him a very patient hearing, as he wished to be informed of every thing that Gentlemen could urge in defence of that system, which appeared to him so defective.

Governor *Randolph*.—Mr. Chairman—As the Gentleman who was last up has given us an opportunity of continuing our observations, I shall, in resuming the subject, endeavor to put this question in a more correct and accurate point of view, than it has yet been put in. I took the liberty yesterday of declaring to the House, the necessity of a national, rather than a Federal Government; and that the Union was necessary for Virginia for many powerful reasons—That this necessity arose, from the certainty of her being involved in disputes and war, with the adjoining States, and the probability of an attack by foreign nations; particularly by those nations to which she is greatly in debt, and which she is unable to pay—From her inability to raise an army to protect her citizens from internal seditions and external attacks—and her inability to raise a navy to protect her trade, and her coasts against descents and invasions. I also, in the course of my argument on this occasion, shewed the imbecility of the present system, in order to obviate, and detect the sophistry of that truly delusive opinion, which has taken possession of the minds of some Gentlemen, that this shipwrecked vessel is sufficiently strong and safe for us to embark in. Whether I have succeeded, or not, I have given the full effusions of my soul, in my attempt to prove the futility of that opinion. Permit me now to pursue the object of my enquiry, respecting the powers necessary to be given to the General Government. I shall discard general considerations at present, as I wish to be as brief as possible, and take up the particular idea of direct taxation. Is it necessary, that the Legislative power of the United States should be authorised to levy taxes? A strange question, to be agitated in this House, after hearing the delinquency of the other States, and even of Virginia herself! Money is the nerves—the life, and soul of a Government. It is the utmost folly to say, that a Government could be carried on without this great agent of human affairs. Wars cannot be carried on without a full and uncontrouled discretionary power to raise money in the most eligible manner. Nay, Sir, Government cannot be administered in time of peace without this power. For how is it to be done? It is needless to impress any farther on the minds of the Gentlemen who hear me, the necessity of this power in Governments. If so, ought the General Government to be more circumscribed in the power of providing for its own safety and existence, than any other Government?

Ought it to depend for the means of its preservation on other bodies? This is actually the case with the Confederation. The power of raising money was nominally vested in that system. In March, 1781, even Maryland, the most backward State then, conceded that Congress should have the power of receiving and demanding their proportionate quotas of the States.<sup>6</sup> This was an acknowledgment of the necessity of vesting a power in Congress, to raise such sums as emergencies might require; but the means, which were proposed, have been found inadequate to encompass the end: The propriety of the means is alone disputed. No doubt it is the universal opinion, of the people of this Commonwealth, that its Legislature should have the power of raising money at its own will and pleasure. There are two ways whereby this may be effected—By requisitions, or taxation—There is no other manner—For it surpasses the ingenuity of man to devise any other mode of raising money, than by one of these two methods. If the alternative of requisitions be determined upon, as more eligible, it will not avail without coercion. If that of taxation be preferred, it will be sufficient without any coercion. If our Legislature were to depend on requisitions for money to answer the ends of Government, then, Sir, the absurdity and sophistry of the arguments urged in defence of such a mode of procuring money, would strike the weakest intellect. If the mere pleasure of individuals were alone to be consulted: If it were left to the choice of your people to pay or not, your treasury would be much poorer than it is; and the advocates of this pernicious policy, would perhaps be ashamed of their pertinacity. Suppose, for a moment, the only existing mode of raising a revenue in Virginia, to be that of requisitions—Suppose your requisitions sent on to every county—Say, that money is wanted—Assume the most pressing language. *We earnestly intreat you. We humbly supplicate and solicit you would furnish us with one thousand, or one hundred pounds, to defray the necessary charges of our Government.* What would be the result of such applications for voluntary contributions? You would be laughed at for your folly, for thinking human nature could be thus operated upon: From my knowledge of human nature, and of my countrymen, I am perfectly certain this would be the case. The argument will be found good in all cases—It will admit of any extension. I ask any Gentleman in this House, if States would comply, with what even a few individuals would refuse? Would not the requisitions of Congress meet a similar fate? This, Sir, has as often happened, as it has been the pleasure of the States to withhold their quotas. Not a shilling has been put into the Continental Treasury, but by the utmost reluctance. The probable delinquency of other States, has been the pretext for non-compliance with every State.

It has been thought hard, that our General Assembly should pay, when Congress ordered us.—Our Representatives have been supposed careless of our interest, in paying the demands of Congress, while delinquencies happened in other States. Punctuality, Sir, instead of being held in that estimation which it really merits, has been looked upon as an improvident expenditure of the substance of the people; and a subjugation of the inhabitants to grievances and burthens, to which the people of delinquent States were not exposed.—This idea has been held in many States, and would hold again. Whosoever depends on the mere right to demand their respective proportions of the States, shews a total ignorance of human actions, and betrays an unacquaintance with the principles of true policy.—The principal ends of all political institutions, are the happiness and safety of the community; but a reliance on Congressional requisitions would leave the country exposed and open to those who should choose to invade us; or lead to such sedition and confusion among ourselves, as must subvert and destroy every object of human society. If requisitions be not faithfully complied with, military coercion seems necessary: Coercion judiciously and moderately used is proper, but if severely and cruelly inflicted, begets unconquerable aversion and hatred. If the spirit of resentment actuates individuals, will not States be equally vindictive? What species of military coercion could the General Government adopt, for the enforcement of obedience to its demands? Either an army sent into the heart of a delinquent State, or blocking up its ports! Have we lived to this then, that in order to suppress and exclude tyranny, it is necessary to render the most affectionate friends the most bitter enemies; set the father against the son, and make the brother slay the brother? Is this the happy expedient that is to preserve liberty? Will it not destroy it? If an army be once introduced to force us; if once marched into Virginia, figure to yourselves what the dreadful consequence will be: The most lamentable civil war must ensue. Have we any troops but militia, to confront those disciplined bands that would be sent to force our compliance with requisitions? The most virulent railings are vented against the Federal Executive. We are told that the President can fix himself in the chair of State—establish himself a monarch—and destroy the liberties of the people. It has too often happened, that powers delegated for the purpose of promoting the happiness of a community, have been perverted to the advancement of the personal emoluments of the agents of the people; but the powers of the President are too well guarded and checked to warrant this illiberal aspersion. Let us candidly consider the consequences of the favorite plan of requisitions, and see whether instead of imaginary or problematical,

there be not real palpable dangers. To compel your obedience, a rapacious army will penetrate into the bosom of your country, carrying destruction and desolation before it. The commander of such an army will be liable to the corruption and passions incident to other men. If he be possessed of military genius, address, and ambition, he may procure this army to proclaim him King. Who can tell the result? Who can oppose him with success? Who can say to him, *Sir, you shall not be a despot?* This reasoning however inconclusive or illogical it may appear to some, is, in my estimation, more accurate than arguments drawn from the possibility of a President's becoming a tyrant. Mr. Chairman, I should object to the so much admired alternative of Gentlemen, were there no other reason, than the danger of an army to enforce requisitions, and the danger of its General becoming our master. I will not mention those nations that might be applied to for aid in such a case: It could easily be procured, but the remedy would be worse than the disease. I speak with respect to Virginia alone. Suppose our trade was to be taken into the hands of Congress, they would find little to satisfy their demands. If permitted by other nations, the compensation they could derive from the exclusive controul of our trade would be but trivial. Great-Britain, France, and Holland are intimately concerned to carry on trade with us: Those nations would disapprove of the measure; and such evasions would be practised on such an occasion as would render it totally ineffectual. If Congress were then to block up our ports, or send an army into our country, Virginia would be in such a horrid situation as would induce her to call for the aid of foreign nations—They have their eyes fixed on us—They watch every opportunity to avail themselves of our divisions.—It is their interest, we should be weak and divided.—Any of them would readily engage in our dissensions—None of them would be displeased at our distractions. But what would be their object in assisting us? On what principles have auxiliaries ever been sent to the aid of a country? Shew me an instance (except the conduct of France to America) where auxiliaries have not either attempted, or actually made themselves masters of those they assisted? With respect to France, her magnanimity to America, is almost unprecedented. She has displayed a degree of disinterestedness and generosity not often exemplified in the annals of mankind. Till France joined us, our troops were not able to withstand the enemy. Yet the fate of many other nations ought to convince us, that the assistance of foreigners is the most dangerous, and the last experiment that ought to be recurred to. Yet the predilection for retaining the power of direct taxation is not to be overcome. An expedient, proposed by a Gentleman whom I do not now see in the



House (Mr. *George Mason*) is, that this power shall be only given to the General Government, as an alternative after requisitions shall have been refused. The most positive requisitions will be unavailable, and failure will produce war. A formal refusal, or negligent non-compliance with the demands of Congress, under a knowledge of the existence of this execrated alternative, would be a prelude to active opposition. I consider this expedient very little better than the ineffectual mode of simple requisitions. The only difference is, that it gives a little more time to a refractory State to provide itself with arms and foreign alliance, to enable it to oppose the operation of this alternative, and resist federal collectors, as was observed by the Honorable Gentleman in the chair [Edmund Pendleton]. The proper time will be picked for the commencement of opposition, and for putting the bayonet to the breasts of their fellow-citizens.—Suppose a requisition to be made on Virginia for 200,000 pounds: She fails to comply: Taxes are then to be collected in the common manner. Is it not probable that the aversion to the exercise of this power by the General Government will incite discontented minds to oppose it? Then, Sir, the dogs of war are to be let loose, and inconceivable mischief to ensue. If the inability of the people requires an extension of the time of payment; let them be indulged as far as may be consistent with a regard for the public exigencies: But let us not be so infatuated as to choose an expedient, which must either be inadequate to the destined purpose, or eventuate in bloodshed and war.—Requisitions, Sir, however modified, must come within this description: They strike me with horror and disgust.—I would as soon see a separation from the Union, and trust to the genius, patriotism, vigilance, and activity; to the morals and natural uprightness of the people, as to ask a Government with no other powers than those whereof our present system is possessed. This is an improvement on that system; and if we reject it, we are ruined. Our credit is depressed, and irretrievably gone, without a change of that system which has caused its depression. It is humiliating and disgraceful, to recur to loans, situated as we are. It is ruinous on any condition, on which our credit could be competent to obtain them: Though under a regular judicious system of administration, they may be very salutary and beneficial. If some accounts be believed, your Ambassador has received from the King of France, those stipends which have supported him. Is this honorable? Is it safe for America? Safety, Sir, forbids so dishonorable and despicable a conduct as to leave our Representative in a state of absolute dependence on another power. Will not his situation be freely and forcibly represented to him? *Remember, Sir, the bread you eat to-morrow, depends on the bounty of the Count de Vergennes.*

Is it possible that in our present circumstances, we can inspire any one with confidence in our engagements? Where in the hour of distress and calamity shall Congress be able to borrow money? The present revenues are appropriated to different purposes, and are from the incompetency of requisitions, inadequate to the public exigencies. Admitting the impost will be sufficiently productive to enable Congress to discharge its engagements, and answer all the demands of Government, in case of a war, will not necessity and the fear of danger render it necessary for the General Government to divert the revenues from the usual appropriations, to the defence of the Union? The necessity of such a diversion, does not lessen the certainty, that public credit would be destroyed by it—The interest on the public debt could not be paid—Foreign and domestic creditors would be disappointed and irritated—And the displeasure of the former might lead to the most serious consequences. What could the General Government do in such a situation, without the power of providing money by taxation: Requisitions would be fruitless and ineffectual: Nor could a Government which depended on such a slender and inefficient source, meet with credulity enough any where to trust it. Will you expose the Continental Congress to such a critical distress? Do you consult public liberty by reducing it to an extremity, whereof none can with certainty foretell the dangerous consequences? Is it not laying a train by which liberty is to be blown up? By withholding a necessary power, you may unwarrily lay the foundation of usurpation itself.

I conclude with my firm belief, that I shew my friendship for Virginia more steadfastly by discarding these requisitions, than by any proposition I could suggest.

The benefits arising from loans, are innumerable. Every nation, even the most wealthy, and the oldest nations, have found it necessary to recur to loans in time of war. This country has found it so, even in time of peace; but on a supposition of war, we *must* borrow money—it will be inevitable. How can Congress have credit to borrow any sum of a considerable amount, on any reasonable conditions, unless it have full scope, and complete command over the resources of the Union? Whatever may be the visionary and fanciful conclusions of political sceptics, the credit of a nation will be found to be co-extensive with its ability. If Congress have an uncontroled power to raise money, as contingencies may render it necessary, it can borrow with ease: But if it have not this power, it is not possible that any confidence can be put in it.

The difficulty of justly apportioning the taxes among the States under the present system, has been complained of; the rule of appor-

tionment being the value of all lands and improvements within the States:<sup>7</sup> The inequality between the rich lands of James river and the barrens of Massachusetts, has been thought to militate against Virginia. If taxes could be laid according to the real value, no inconvenience could follow; but from a variety of reasons this value was very difficult to be ascertained; and an error in the estimation must necessarily have been oppressive to a part of the community. But in this new Constitution, there is a more just and equitable rule fixed; a limitation beyond which they cannot go. Representatives and taxes go hand in hand; according to the one will the other be regulated. The number of Representatives are determined by the number of the inhabitants—They have nothing to do but to lay taxes accordingly. I will illustrate it by a familiar example. At present, before the people are actually numbered, the number of Representatives is sixty-five; of this number Virginia has a right to send ten; consequently she will have to pay ten parts out of sixty-five parts, of any sum that may be necessary to be raised by Congress: This, Sir, is the line.—Can Congress go beyond the bounds prescribed in the Constitution? Has Congress a power to say, that she shall pay fifteen parts out of sixty-five parts? Were they to assume such a power, it would be an usurpation so glaring, that rebellion would be the immediate consequence. Congress is only to say on what subject the tax is to be laid. It is a matter of very little consequence, how it will be imposed, since it must be clearly laid on the most productive article in each particular State. I am surprised that such strong objections should have been made to, and such fears and alarms excited by, this power of direct taxation; since experience shews daily, that it is neither inconvenient (n)or oppressive.—A collector goes to a man's house; the man pays him with freedom, or makes an apology for his inability to do it then:—At a further day, if payment be not made, distress is made, and acquiesced in by the party. What difference is there between this and a tax imposed by Congress? Is it not done by lawful authority? The distinction is between a Virginian and Continental authority. Yet in both cases it is imposed by ourselves, through the medium of our Representatives. When a tax will come to be laid by Congress, the collector will apply in like manner, and in the same manner receives payment, or an apology; at a future day, likewise, the same consequences will result from a failure. I presume, Sir, there is a manifest similarity between the two cases. When Gentlemen complain of the novelty, they ought to advert to the singular one that must be the consequence of requisitions; an army sent into your country to force you to comply. Will not this be the dissolution of the Union, if ever it takes effect? Let us be candid on this

subject: Let us see if the criterion here fixed be not equal and just. Were the tax laid on one uniform article through the Union, its operation would be oppressive on a considerable part of the people. When any sum is necessary for the General Government, every State will immediately know its exact proportion of it, from the number of their people and Representatives; nor can it be doubted that the tax will be laid in each State, in the manner that will best accommodate the people of such State, as thereby it will be raised with more facility; for an oppressive mode can never be so productive as the most easy for the people. The system under consideration is objected to in an unconnected and irregular manner: Detached parts are attacked without considering the whole: This, Sir, is disengenious and unreasonable.—Ask if the powers be unnecessary. If the end proposed can be attained by any other means, (the) powers may be unnecessary. Infallibility was not arrogated by the Convention—They included in the system those powers they thought necessary. If you do not think those powers indispensable, never give them up. But I trust this power of imposing direct taxes has been proved to be essential to the very existence of the Union. The advocates for the national Government, circumstanced as they are, with the accession of so many States never will give their assent to leave it in the power of the States to sacrifice the Union. It has been observed by an Honorable Gentleman over the way (Mr. *George Mason*) that there could not be a fellow-feeling between the national Representatives and their constituents, and that oppression must be inseparable from their exercise of the power of imposing taxes. I beg leave to remind you of a similar complaint made on a similar occasion. I allude to the Scotch Union. If Gentlemen cast their eyes to that period, they will find there an instructive similitude between our circumstances and the situation of those people. The advocates for an Union with England, declared that it would be a foundation of lasting peace, remove all jealousies between them, increase their strength and riches, and enable them to resist more effectually the efforts of the Pretender. These were irresistible arguments one would be inclined to believe; arguments *a priori*, which challenge conviction; and which appear perfectly conclusive, since now verified by actual events.—Yet the opposers to that Union, declaimed, that the independence of Scotland was gone; that the peerage of Scotland was degraded; that the people of England would alone be gainers, and that the people of Scotland would be the losers. How are the facts? Both kingdoms have derived great benefits from that Union, and the predictions of the advocates for that Union have been fully verified. The arguments used on that occasion apply with more cogency to our

situation.—The people of Rhode-Island may say, their independence will be lost by an Union with the other States; that they will be degraded; their consequence lost, and their liberties endangered. Many such specious and plausible arguments may be urged by their great men, who would no longer retain the importance, which their paper money, and other causes give them in a single State; yet the topographical situation of that State renders Union more essential to its existence, than to that of any other State. Is it urged that the independence of Virginia will be gone by the Union? Will not all the happy effects of the Union I have just mentioned, and more, redound to Virginia from this Union? But our Representatives are suspected. On a further inspection of the system before you, this objection must vanish. Ten Representatives will have no fellow-feeling for their constituents! Will not the people choose men of integrity, and of similar circumstances with themselves, to represent them? What laws can they make that will not operate on themselves and friends, as well as on the rest of the people? Will the people re-elect the same men to repeat oppressive legislation? Will the people commit suicide against themselves, and discard all those maxims and principles of interest and self-preservation which actuate mankind in all their transactions? Will the ten miles square transform our Representatives into brutes and tyrants? I see no grounds to distrust them: But suppose they will be inclined to do us mischief, how can they effect it? If the Federal necessities call for the sum of 65,000 pounds, our proportion of that sum is 10,000 pounds. If instead of this just proportion, they should require a greater sum, a conflict would ensue. What steps could they take to enforce the payment of this unjust and tyrannical demand? They must summon up all the genius of better men: But in case of actual violence, they could not raise the thousandth part of 10,000 pounds. In case of a struggle, Sir, the people would be irresistible. If they should be so liable to lapse from virtue, yet would not one man be found out of a multitude to guard the interest of the people? Not one man to hold up his head, to discover the tyrannical projects of a corrupt and depraved majority? Suppose the House of Representatives all equally infatuated and determined on so wicked an intention as to infringe the rights of the people, they have not the whole authority in their own hands. There are twenty-six Senators, distinguished for their wisdom, not elevated by popular favor, but chosen by a select body of intelligent men: Will they also be corrupt? Will their honor and virtue be contaminated and disgraced in one instant? Sixty-five Representatives and twenty-six Senators are then to be suddenly changed from upright men to monsters: Ninety-one persons selected for superior

qualities are to compose this pandemonium of iniquity. The supposition of their degenerating to such a degree is unwarrantable, and inconsistent with an admission of their being freely chosen, by a people capable of discerning merit: And should a majority ever be so forgetful of their duty, as to wish to trample on the immunities of the people, there is no reason to doubt, that some of them will be so far inspired with a zeal for liberty, as to warn their country of any dangerous combinations against their privileges.—The people, to heighten their security, may send those to the General Government who have been signalized for their wisdom and virtue. What security have the people of Virginia against the possible abuses of their Legislature, that is not here?—But their number is objected to, as being too small. I should reluctantly assent to this representative body, did I conceive it consisted of too few. It is an established maxim, that such a body ought to be numerous enough to be well acquainted with the interest of the people, to prevent corruption, and to give a chance to men of merit to be elected. If the number be not sufficient for these purposes, I confess it to be a defect. The number is sixty-five, of which ten represent this State. Cannot they inform themselves of the situation of America? I appeal to those who hear me, if they could not rely on the intelligence of ten men they could fix upon, sooner than upon any crowd they could have? I do not reflect on my countrymen, but there are certain listlessness and inattention to the interests of the community, or indecision and faction in numerous bodies, that I would rather depend on the virtue and knowledge of some few men, than on ever so many. The mode of their election must induce us to believe, that they will be men of experience and information. The State will be laid off and divided into ten districts; from each of these a man is to be elected. He must be really the choice of the people: Not the man who can distribute the most gold; for the riches of Cræsus would not avail. The qualifications of the electors being the same as those of the Representatives for the State Legislature, and the election being under the controul of the Legislature; the prohibitory provisions against undue means of procuring votes to the State representation, extend to the Federal Representatives: The extension of the sphere of election to so considerable a district, will render it impossible for contracted influence, or local intrigues, or personal interest to procure an election. Enquiries will be made by the voters, into the characters of the candidates.—Greater talents, and a more extensive reputation will be necessary, to procure an election for the Federal, than for the State representation. The Federal Representatives must therefore be well acquainted for their integrity, and their knowledge of the country they

represent. We shall have ten men thus elected. What are they going yonder for? Not to consult for Virginia alone, but for the interest of the United States collectively. Will not such men derive sufficient information, from their own knowledge, of their respective States, and from the codes of the different States? The want of information ought no longer to be urged as an objection. With respect to merit, Sir, the House must be satisfied that there is ample room open for it. A cottager will receive the votes of his country, as well as the descendant of any aristocrat of this country. Is it not notorious that virtue and ability have been preferred generally here to riches and connections? The present number, sixty-five, is to be increased according to the progressive augmentation of the number of the people. From the present number of inhabitants, which is estimated at 352,000 whites, and 236,000 blacks, we shall be entitled to fifteen Representatives. But here another objection will be offered: It will be complained, that the taxes will be increased according to the number of Representatives, on which I will only observe here, that the same rule operates in all the States, and that it is not more unjust or oppressive in one State than in another. The number of Representatives is as great, as can be paid by America at this time: And, whatever other Gentlemen may conclude, on that subject, I think for my part, that it would be fortunate if the number was to continue as it is at present, for a long time; or at least, that it should be limited, not to exceed a certain amount; for, if you swell the Legislative list to such a degree, as the increase of population, at a reasonable calculation, will at a period not very remote, entitle the people to send, it will introduce corruption and confusion, and prevent that secrecy, without which, success can never be expected in negotiations, or other transactions. It was my purpose to answer the objections against the power of the national Government to lay direct taxes; and against the mode of representation.—It is needless to dwell much longer on the subject: Were one to rise from the dead to declare the expediency of that power, I could not be more firmly persuaded, than I am now, of its propriety. To dissuade us from conceding this power, Gentlemen alarm us with apprehensions, that the most intolerable oppressions will be committed by the federal collectors. Let us consider this dispassionately, and whether the idea be well founded, which is suggested, that a conflict will frequently happen between the State and Congressional collector, for property seized and claimed by both. If there be no necessity, or strong temptation, to increase the present number of officers, no addition will be made to them. Congress will have every inducement, and, from the mode of their appointment, must be inclined to lighten

the burthens of the people. They can derive no advantage from a contrary conduct. In other countries, where the face of the poor is ground, offices are created merely for the emolument of certain individuals; but by the structure of this Government, the interest of the people must always be considered—Nor will any but necessary offices be created. The number of officers, and their compensations, will be as inconsiderable, as the nature of their business will admit of. With respect to collectors of the general taxes, I have not the least doubt, that Congress will employ the State officers and sheriffs; because it will be œconomical, and agreeable to the people: A considerable sum will be saved by it. They will employ such men, Mr. Chairman, unless they determine to throw away the public money in an unjustifiable manner. They will never adopt measures which may produce discontent in the country, when they can effect the same purpose by peaceable and satisfactory means. With regard to any personal abuse or misconduct of a collector, such an officer would be amenable to the laws, like any other citizen; he is only protected by the law, where he acts lawfully—In such cases the evil would not be repeated—It could not continue. Congress can take away their offices from such men as abuse them, and give them to others. It cannot be believed that they will carry their wickedness so far, as to trust men of this stamp. As to the mode of paying the taxes, little need be said—It is immaterial which way they are to be paid; for they are to be paid only once. I had an objection which pressed heavily on my mind—I was solicitous to know the objects of taxation. I wished to make some discrimination with regard to the demands of Congress, and of the States, on the same object. As neither can restrain the other in this case; as the power of both is unlimited, it will be their interest mutually to avoid interferences. It will most certainly be the interest of either to avoid imposing a tax on an article, which shall have been previously taxed by the other. This consideration, and the structure of the Government satisfy me.—I cannot foretel, in the course of human events, what Virginia and the United States may be exposed to, blindfolded as I am with respect to futurity; but I would not restrict Congress in this case, unless I meant to destroy the Government itself.—What will be the consequence of withholding this power from Congress? Will it not be reduced to the most dangerous distress, if a war should happen? The case has happened, and may again. In case of domestic war, or an invasion, every shilling they could lay their hands on, would be necessary, but not sufficient to carry it on. What could the General Government do, without this source to procure money, for the prosecution of the war, and its other exigencies? I beg the friends of the Union to consider



the necessity of this power—Without it we may abandon the Government altogether—It is the soul of the Government—No substitute will answer in its stead.—The history of other confederacies will instruct us, that the General Government must operate on the individuals of the community; or else be totally inefficient. Not ancient confederacies only, but certain modern ones, will point out to us the horrid situation in which those States must be involved, unless the General Government be vested with this power.—The history of those confederacies will discover to us the dreadful misfortunes which their people have suffered by the imbecility of their Governments. If some other Gentleman will not, I shall discover at another opportunity, that mournful history.

Mr. *Madison*.<sup>s</sup>—Mr. Chairman,—In considering this great subject, I trust we shall find that part which gives the General Government, the power of laying and collecting taxes, indispensable and essential to the existence of any efficient, or well organized system of Government: If we consult reason, and be ruled by its dictates, we shall find its justification there: If we review the experience we have had, or contemplate the history of nations, here we find ample reasons to prove its expediency. There is little reason to depend for necessary supplies on a body which is fully possessed of the power of withholding them. If a Government depends on other Governments for its revenues; if it must depend on the voluntary contributions of its members, its existence must be precarious. A Government which relies on thirteen independent sovereignties, for the means of its existence, is a solecism in theory, and a mere nullity in practice. Is it consistent with reason, that such a Government can promote the happiness of any people? It is subversive of every principle of sound policy, to trust the safety of a community with a Government, totally destitute of the means of protecting itself or its members. Can Congress, after the repeated unequivocal proofs it has experienced of the utter inutility and inefficacy of requisitions, reasonably expect, that they would be hereafter effectual or productive? Will not the same local interests, and other causes, militate against a compliance? Whoever hopes the contrary must ever be disappointed. The effect, Sir, cannot be changed without a removal of the cause. Let each county in this Commonwealth be supposed free and independent: Let your revenues depend on requisitions of proportionate quotas from them: Let application be made to them repeatedly: Is it to be presumed that they would comply, or that an adequate collection could be made from partial compliances? It is now difficult to collect the taxes from them: How much would that difficulty be enhanced, were you to depend solely on their generosity? I appeal to the reason of every Gentleman here, whether he

is not persuaded, that the present Confederation is as feeble, as the Government of Virginia would be in that case: To the same reason I appeal, whether it be compatible with prudence to continue a Government of such manifest and palpable debility.—If we recur to history, and review the annals of mankind, I undertake to say, that no instance can be produced by the most learned man, of any Confederate Government, that will justify a continuation of the present system; or that will not demonstrate the necessity of this change; and of substituting to the present pernicious and fatal plan, the system now under consideration, or one equally as energetic. The uniform conclusion drawn from a review of ancient and modern Confederacies, is, that instead of promoting the public happiness, or securing public tranquillity, they have, in every instance, been productive of anarchy and confusion; ineffectual for the preservation of harmony, and a prey to their own dissensions and foreign invasions.

The Amphyctionic league resembled our Confederation in its nominal powers; it was possessed of rather more power. The component States retained their sovereignty, and enjoyed an equality of suffrage in the Federal Council. But though its powers were more considerable in many respects than those of our present system; yet it had the same radical defect. Its powers were exercised over its individual members in their political capacities. To this capital defect, it owed its disorders, and final destruction: It was compelled to recur to the sanguinary coercion of war to enforce its decrees. The struggles consequent on a refusal to obey a decree, and an attempt to enforce it, produced the necessity of applying to foreign assistance: By complying with such an application, together with his intrigues, Philip of Macedon, acquired sufficient influence to become a member of the league. This artful and insidious Prince soon after became master of their liberties.

The Achæan league, though better constructed than the Amphyctionic, in material respects, was continually agitated with domestic dissensions, and driven to the necessity of calling foreign aid: This also eventuated in the demolition of their confederacy. Had they been more closely united, their people would have been happier; and their united wisdom and strength would not only have rendered unnecessary all foreign interpositions in their affairs, but would have enabled them to repel the attack of any enemy. If we descend to more modern examples, we shall find the same evils resulting from the same sources.

The Germanic system is neither adequate to the external defence, nor internal felicity of the people—The doctrine of quotas and requisitions flourishes here. Without energy—without stability—the empire

is a nerveless body. The most furious conflicts, and the most implacable animosities between its members, strikingly distinguish its history. Concert and co-operation are incompatible with such an injudiciously constructed system.

The republic of the Swiss is sometimes instanced for its stability, but even there, dissensions and wars of a bloody nature, have been frequently seen between the Cantons. A peculiar coincidence of circumstances contributes to the continuance of their political connection. Their feeble association owes its existence to their singular situation. There is a schism this moment in their Confederacy, which, without the necessity of uniting for their external defence, would immediately produce its dissolution.

The Confederate Government of Holland, is a further confirmation of the characteristic imbecility of such Governments. From the history of this Government we might derive lessons of the most important utility.

(Here Mr. Madison quoted sundry passages from De Wit,<sup>9</sup> respecting the people of Holland, and the war which they had so long supported against the Spanish Monarch; shewing the impolitic and injudicious structure of their confederacy; that it was entirely destitute of energy, because their revenues depended chiefly on requisitions; that during that long war, the Provinces of Guelderland and Overyssell had not paid their respective quotas, but had evaded altogether their payments; in consequence of which, two sevenths of the resources of the community had never been brought into action; nor contributed in the least towards the prosecution of the war: That the fear of pressing danger stimulated Holland and the other Provinces to pay all the charges of the war: That those two Provinces had continued their delinquencies; that the Province of Holland alone paid more than all the rest; still those Provinces who paid up their proportional shares, claimed from the failing States the amounts of their arrearages; that the most fatal consequences had nearly resulted from the difficulty of adjusting those claims, and from the extreme aversion of the delinquent States to discharge even their most solemn engagements: That there are existing controversies between the Provinces on this account at present; and to add to the evils consequent upon requisitions, (that) unanimity and the revision and sanction of their constituents, were necessary to give validity to the decisions of the States General.)

Mr. *Madison* then added, That these radical defects in their confederacy must have dissolved their association long ago, were it not for their peculiar position—Circumscribed in a narrow territory; surrounded by the most powerful nations in the world; possessing peculiar advantages from their situation; an extensive navigation and a powerful

navy—advantages which it was clearly the interest of those nations to diminish, or deprive them of: And that their late unhappy dissensions were manifestly produced by the vices of their system. He then continued we may derive much benefit from the experience of that unhappy country.—Governments destitute of energy, will ever produce anarchy.—These facts are worthy the most serious consideration of every Gentleman here.—Does not the history of these confederacies coincide with the lesson drawn from our own experience? I most earnestly pray that America may have sufficient wisdom to avail herself of the instructive information she may derive from a contemplation of the sources of their misfortunes, and that she may escape a similar fate by avoiding the causes from which their infelicity sprung.—If the General Government is to depend on the voluntary contributions of the States for its support, dismemberment of the United States may be the consequence. In cases of imminent danger, the States more immediately exposed to it, would only exert themselves—Those remote from it, would be too supine to interest themselves warmly in the fate of those whose distresses they did not immediately perceive. The General Government ought therefore to be empowered to defend the whole Union.

Must we not suppose, that those parts of America which are most exposed, will first be the scenes of war? Those nations whose interest is incompatible with an extension of our power, and who are jealous of our resources to become powerful and wealthy, must naturally be inclined to exert every means to prevent our becoming formidable. Will they not be impelled to attack the most exposed parts of the Union? Will not their knowledge of the weakness of our Government stimulate them the more readily to such an attack? Those parts to which relief can be afforded with most difficulty, are the extremities of the country, and will be the first objects of our enemies. The General Government having no resources beyond what are adequate to its existing necessities, will not be able to afford any effectual succour to those parts which may be invaded.

America, in such a case, would palpably perceive the danger and folly of withholding from the Union, a *power* sufficient to protect the whole territory of the United States. Such an attack is far from improbable, and if it be actually made, it is difficult to conceive a possibility of escaping the catastrophe of a dismemberment. On this subject we may receive an estimable and instructive lesson, from an American confederacy;—from an example which has happened in our own country, and which applies to us with peculiar force, being most analogous to our situation. I mean that species of association or union

which subsisted in New-England. The Colonies of Massachusetts, Bristol, Connecticut, and New-Hampshire, were confederated together.<sup>10</sup>

The object of that confederacy was primarily to defend themselves against the inroads and depredations of the Indians. They had a Common-Council, consisting of deputies from each party, with an equality of suffrage in their deliberations. The general expenditures and charges were to be adequately defrayed. Its powers were very similar to those of the Confederation. Its history proves clearly, that a Government founded on such principles must ever disappoint the hopes of those who expect its operation to be conducive to the public happiness.

There are facts on record to prove, that instead of answering the end of its institution, or the expectation of its framers, it was violated with impunity; and only regarded when it coincided perfectly with the views and immediate interests of the respective parties.

The strongest member of the Union availed itself of its circumstances to infringe their confederacy. Massachusetts refused to pay its quotas. In the war between England and Holland, it was found particularly necessary to make more exertions for the protection of that country.

Massachusetts being then more powerful and less exposed than the other Colonies, refused its contributions to the general defence. In consequence of this, the Common-Council remonstrated against the Council of Massachusetts. This altercation terminated in the dissolution of their Union. From this brief account of a system perfectly resembling our present one, we may easily divine the inevitable consequences of a longer adherence to the latter.

(Mr. *Madison* then recapitulated many instances of the prevalent persuasion of the wisest patriots of the States, that the safety of all America depended on Union; and that the Government of the United States must be possessed of an adequate degree of energy, or that otherwise their connection could not be justly denominated an Union.—He likewise enumerated the expedients that had been attempted by the people of America to form an intimate association, from the meeting at New-York in the year, 1754,<sup>11</sup> downwards: That their sentiments on this subject had been uniform, both in their colonial and independent conditions: And that a variety of causes had hitherto prevented the adoption of an adequate system.)

He then continued thus—If we take experience for our guide, we shall find still more instructive direction on this subject. The weakness of the existing articles of the Union, shewed itself during the war. It has manifested itself since the peace, to such a degree as admits of no doubt to a rational, intelligent, and unbiassed mind, of the necessity

of an alteration: Nay, this necessity is obvious to all America—It has forced itself on the minds of the people. The Committee has been informed, that the Confederation was not completed till the year, 1781,<sup>12</sup> when a great portion of the war was ended; consequently no part of the merit of the antecedent operations of the war could justly be attributed to that system. Its debility was perceived almost as soon, as it was put in operation.—A recapitulation of the proofs which have been experienced of its inefficacy, is unnecessary.—It is most notorious, that feebleness universally marked its character.—Shall we be safe in another war in the same situation? That instrument required the voluntary contributions of the States, and thereby sacrificed some of our best privileges.—The most intolerable and unwarrantable oppressions were committed on the people during the late war. The gross enormity of those oppressions might have produced the most serious consequences, were it not for the spirit of liberty, which preponderated against every consideration.

A scene of injustice, partiality and oppression, may bring heavenly vengeance on any people. We are now by our sufferings, expiating the crimes of the otherwise glorious revolution. Is it not known to every member of this Committee, that the great principles of a free Government, were reversed through the whole progress of that scene? Was not every State harrassed? Was not every individual oppressed and subjected to repeated distresses? Was this right? Was it a proper form of Government, that warranted, authorised, or overlooked, the most wanton deprivation of property? Had the Government been vested with complete power to procure a regular and adequate supply of revenue, those oppressive measures would have been unnecessary. But, Sir, can it be supposed that a repetition of such measures would ever be acquiesced in? Can a Government that stands in need of such measures secure the liberty, or promote the happiness or glory of any country? If we do not change this system, consequences must ensue that Gentlemen do not now apprehend. If other testimony were necessary, I might appeal to that which I am sure is very weighty, but which I mention with reluctance: At the conclusion of the war, that man [George Washington] who had the most extensive acquaintance with the nature of the country; who well understood its interests, and who had given the most unequivocal and most brilliant proofs of his attachment to its welfare—When he laid down his arms, wherewith he had so nobly and successfully defended his country, publicly testified his disapprobation of the present system, and suggested that some alteration was necessary to render it adequate to the security of our happiness.<sup>13</sup> I did not introduce that great name to bias any Gentleman

here. Much as I admire and revere the man, I consider these members as not to be actuated by the influence of any man; but I introduced him as a respectable witness to prove that the Articles of the Confederation were inadequate, and that we must resort to something else. His modesty did not point out what ought to be done, but said, that some great change was necessary. But, Sir, testimony if wished for, may be found in abundance, and numerous conclusive reasons urged for this change. Experience was daily producing such irresistible proofs of the defects of that system, that this Commonwealth was induced to exert her influence to meliorate it: She began that noble work, in which I hope she will persist: She proposed to revise it<sup>14</sup>—Her proposition met with that concurrence, which that of a respectable party will always meet. I am sure if demonstration were necessary on the part of this Commonwealth, reasons have been abundantly heard in the course of this debate, manifold and cogent enough, not only to operate conviction, but to disgust an attentive hearer. Recollect the resolution of the year 1784.<sup>15</sup> It was then found that the whole burthen of the Union was sustained by a few States. This State was likely to be saddled with a very disproportionate share. That expedient was proposed (to obviate this inconvenience) which has been placed in its true light. It has been painted in sufficient horrors by the Honorable Gentleman who spoke last [Edmund Randolph].

I agree with the Honorable Gentleman (Mr. *Henry*) that national splendor and glory are not our objects—But does he distinguish between what will render us secure and happy at home, and what will render us respectable abroad? If we be free and happy at home, *we shall be* respectable abroad.

The Confederation is so notoriously feeble, that foreign nations are unwilling to form any treaties with us—They are apprised that our General Government cannot perform any of its engagements; but, that they may be violated at pleasure by any of the States. Our violation of treaties already entered into, proves this truth unequivocally.<sup>16</sup> No nation will therefore make any stipulations with Congress, conceding any advantages of importance to us: They will be the more averse to entering into engagements with us, as the imbecility of our Government enables them to derive many advantages from our trade, without granting us any return. But were this country united by proper bands, in addition to other great advantages, we could form very beneficial treaties with foreign States. But this can never happen without a change in our system. Were we not laughed at by the Minister of that nation, from which we may be able yet to extort some of the most salutary measures for this country?<sup>17</sup> Were we not told that it was necessary to

temporise till our Government acquired consistency? Will any nation relinquish national advantages to us? You will be greatly disappointed, if you expect any such good effects from this contemptible system. Let us recollect our conduct to that country from which we have received the most friendly aid. How have we dealt with that benevolent ally? Have we complied with our most sacred obligations to that nation? Have we paid the interest punctually from year to year? Is not the interest accumulating, while not a shilling is discharged of the principal? The magnanimity and forbearance of that ally are so great, that she has not called upon us, for her claims, even in her own distress and necessity. This, Sir, is an additional motive to increase our exertions. At this moment of time, a very considerable amount is due from us to that country and others.—(Here Mr. *Madison* mentioned the amount of the debts due to different foreign nations.)<sup>18</sup>—We have been obliged to borrow money, even to pay the interest of our debts. This is a ruinous and most disgraceful expedient. Is this a situation on which America can rely for security and happiness? How are we to extricate ourselves? The Honorable member told us, we might rely on the punctuality and friendship of the States, and that they will discharge their quotas for the future. The contributions of the States have been found inadequate from the beginning, and are diminishing instead of increasing.—From the month of June, 1787, till June, 1788, they have only paid 276,641 dollars into the federal treasury for the purposes of supporting the National Government, and discharging the interest of the national debts:<sup>19</sup> A sum so very insufficient, that it must greatly alarm the friends of their country. Suggestions and strong assertions dissipate before these facts. I shall no longer fatigue the Committee at this time, but will resume the subject as early as I can.

Mr. *Henry*.—I have thought, and still think, that a full investigation of the actual situation of America, ought to precede any decision on this great and important question. That Government is no more than a choice among evils, is acknowledged by the most intelligent among mankind, and has been a standing maxim for ages. If it be demonstrated that the adoption of the new plan is a little or a trifling evil, then, Sir, I acknowledge that adoption ought to follow: But, Sir, if this be a truth that its adoption may entail misery on the free people of this country, I then insist, that rejection ought to follow. Gentlemen strongly urge its adoption will be a mighty benefit to us: But, Sir, I am made of such incredulous materials that assertions and declarations, do not satisfy me. I must be convinced, Sir. I shall retain my infidelity on that subject, till I see our liberties secured in a manner perfectly satisfactory to my understanding.



There are certain maxims by which every wise and enlightened people will regulate their conduct. There are certain political maxims, which no free people ought ever to abandon. Maxims of which the observance is essential to the security of happiness. It is impiously irritating the avenging hand of Heaven, when a people who are in the full enjoyment of freedom, launch out into the wide ocean of human affairs, and desert those maxims which alone can preserve liberty. Such maxims, humble as they are, are those only which can render a nation safe or formidable. Poor little humble republican maxims have attracted the admiration and engaged the attention of the virtuous and wise in all nations, and have stood the shock of ages. We do not now admit the validity of maxims, which we once delighted in. We have since adopted maxims of a different but more *refined nature*: New maxims which tend to the prostration of republicanism.

We have one, Sir, *That all men are by nature free and independent, and have certain inherent rights, of which, when they enter into society, they cannot by any compact deprive or divest their posterity.*<sup>20</sup> We have a set of maxims of the same spirit, which must be beloved by every friend to liberty, to virtue, to mankind. Our Bill of Rights contains those admirable maxims.

Now, Sir, I say, let us consider, whether the picture given of American affairs ought to drive us from those beloved maxims.

The Honorable Gentleman (Governor *Randolph*) has said, that it is too late in the day for us to reject this new plan: That system which was once execrated by the Honorable member, must now be adopted, let its defects be ever so glaring. That Honorable member will not accuse me of want of candour, when I cast in my mind what he has given the public,<sup>(b)</sup><sup>21</sup> and compare it to what has happened since. It seems to me very strange and unaccountable, that that which was the object of his execration, should now receive his encomiums. Something extraordinary must have operated so great a change in his opinion. *It is too late in the day?* Gentlemen must excuse me, if they should declare again and again, that it was too late, and I should think differently. I never can believe, Sir, that it is too late to save all that is precious. If it be proper, and independently of every external consideration, wisely constructed, let us receive it: But, Sir, shall its adoption by eight States induce us to receive it, if it be replete with the most dangerous defects? They urge that subsequent amendments are safer than previous amendments, and that they will answer the same ends. At present we have our liberties and privileges in our own hands. Let us not relinquish them. Let us not adopt this system till we see them secured. There is some small possibility, that should we follow the conduct of Massa-

chusetts, amendments might be obtained. There is a small possibility of amending any Government; but, Sir, shall we abandon our most inestimable rights, and rest their security on a mere possibility? The Gentleman [Edmund Randolph] fears the loss of the Union. If eight States have ratified it unamended, and we should rashly imitate their precipitate example; do we not thereby disunite from several other States? Shall those who have risked their lives for the sake of union, be at once thrown out of it? If it be amended, every State will accede to it; but by an imprudent adoption in its defective and dangerous state, a schism must inevitably be the consequence: I can never, therefore, consent to hazard our most unalienable rights on an absolute uncertainty. You are told there is no peace,<sup>22</sup> although you fondly flatter yourselves that all is peace—No peace—a general cry and alarm in the country—Commerce, riches, and wealth vanished—Citizens going to seek comforts in other parts of the world—Laws insulted—Many instances of tyrannical legislation. These things, Sir, are new to me. He has made the discovery—As to the administration of justice, I believe that failures in commerce, &c. cannot be attributed to it. My age enables me to recollect its progress under the old Government. I can justify it by saying, that it continues in the same manner in this State, as it did under former Government. As to other parts of the Continent, I refer that to other Gentlemen. As to the ability of those who administer it, I believe they would not suffer by a comparison with those who administered it under the royal authority. Where is the cause of complaint if the wealthy go away? Is this added to the other circumstances, of such enormity, and does it bring such danger over this Commonwealth as to warrant so important, and so awful a change in so precipitate a manner? As to insults offered to the laws, I know of none. In this respect I believe this Commonwealth would not suffer by a comparison with the former Government. The laws are as well executed, and as patiently acquiesced in, as they were under the royal administration. Compare the situation of the country—Compare that of our citizens to what they were then, and decide whether persons and property are not as safe and secure as they were at that time. Is there a man in this Commonwealth, whose person can be insulted with impunity? Cannot redress be had here for personal insults or injuries, as well as in any part of the world—as well as in those countries where Aristocrats and Monarchs triumph and reign? Is not the protection of property in full operation here? The contrary cannot with truth be charged on this Commonwealth. Those severe charges which are exhibited against it, appear to me totally groundless. On a fair investigation, we shall be found to be surrounded by no real dangers. We

have the animating fortitude and persevering alacrity of republican men, to carry us through misfortunes and calamities. 'Tis the fortune of a republic to be able to withstand the stormy ocean of human vicissitudes. I know of no danger awaiting us. Public and private security are to be found here in the highest degree. Sir, it is the fortune of a free people, not to be intimidated by imaginary dangers. Fear is the passion of slaves. Our political and natural hemisphere[s] are now equally tranquil. Let us recollect the awful magnitude of the subject of our deliberation. Let us consider the latent consequences of an erroneous decision—and let not our minds be led away by unfair misrepresentations and uncandid suggestions. There have been many instances of uncommon lenity and temperance used in the exercise of power in this Commonwealth. I could call your recollection to many that happened during the war and since—But every Gentleman here must be apprized of them.

The Honorable member [Edmund Randolph] has given you an elaborate account of what he judges tyrannical legislation, and an *ex post facto law* (in the case of Josiah Philips.) He has misrepresented the facts. That man was not executed by a tyrannical stroke of power (nor was he a Socrates). He was a fugitive murderer and an out-law—a man who commanded an infamous banditti, at a time when the war was at the most perilous stage. He committed the most cruel and shocking barbarities. He was an enemy to the human name.—Those who declare war against the human race, may be struck out of existence as soon as they are apprehended. He was not executed according to those beautiful legal ceremonies which are pointed out by the laws, in criminal cases. The enormity of his crimes did not entitle him to it. I am truly a friend to legal forms and methods; but, Sir, the occasion warranted the measure. A pirate, an out-law, or a common enemy to all mankind, may be put to death at any time. It is justified by the laws of nature and nations.<sup>23</sup> The Honorable member tells us then, that there are burnings and discontents in the hearts of our citizens in general, and that they are dissatisfied with their Government. I have no doubt the Honorable member believes this to be the case, because he says so. But I have the comfortable assurance, that it is a certain fact, *that it is not so*. The middle and lower ranks of people have not those illumined ideas, which the well-born are so happily possessed of—They cannot so readily perceive latent objects. The microscopic eyes of modern States-men can see abundance of defects in old systems; and their illumined imaginations discover the necessity of a change. They are captivated by the parade of the number ten—The charms of the ten miles square.—Sir, I fear this change will ultimately lead to

our ruin. My fears are not the force of imagination—They are but too well founded. I tremble for my country: But, Sir, I trust, I rely, and I am confident, that this political speculation has not taken so strong a hold of men's minds, as some would make us believe.

The dangers which may arise from our geographical situation, will be more properly considered awhile hence. At present, what may be surmised on the subject, with respect to the adjacent States, is merely visionary. Strength, Sir, is a relative term. When I reflect on the natural force of those nations that might be induced to attack us, and consider the difficulty of the attempt and uncertainty of the success, and compare thereto the relative strength of our country, I say that we are strong. We have no cause to fear from that quarter—We have nothing to dread from our neighboring States. The superiority of our cause would give us an advantage over them, were they so unfriendly or rash as to attack us. As to that part of the community, which the Honorable Gentlemen spoke of as being in danger of being separated from us:<sup>24</sup> What incitement or inducement could its inhabitants have to wish such an event? It is a matter of doubt whether they would derive any advantage to themselves, or be any loss to us by such a separation. Time has been, and may yet come, when they will find it their advantage and true interest to be united with us. There is no danger of a dismemberment of our country, unless a Constitution be adopted which will enable the Government to plant enemies on our backs. By the Confederation, the rights of territory are secured. No treaty can be made without the consent of nine States.<sup>25</sup> While the consent of nine States is necessary to the cession of territory you are safe. If it be put in the power of a less number, you will most infallibly lose the Mississippi. As long as we can preserve our unalienable rights, we are in safety. This new Constitution will involve in its operation the loss of the navigation of that valuable river. The Honorable Gentleman [Edmund Randolph] cannot be ignorant of the *Spanish transactions*.—A treaty had been nearly entered into with Spain, to relinquish that navigation. That relinquishment would absolutely have taken place, had the consent of seven States been sufficient. The Honorable Gentleman told us then, that eight States having adopted this system, we cannot suppose they will recede on our account. I know not what they may do; but this I know, that a people of infinitely less importance, than those of Virginia, stood the terror of war.—Vermont, Sir, withstood the terror of thirteen States.<sup>26</sup> Maryland did not accede to the Confederation till the year, 1781. These two States, feeble as they are comparatively to us, were not afraid of the whole Union. Did either of these States perish? No, Sir, they were admitted freely into the

Union. Will not Virginia then be admitted? I flatter myself that those States who have ratified the new plan of Government will open their arms and cheerfully receive us, although we should propose certain amendments as the conditions on which we should ratify it. During the late war, all the States were in pursuit of the same object. To obtain that object they made the most strenuous exertions. They did not suffer trivial considerations to impede its acquisition. Give me leave to say, that if the smallest States in the Union were admitted into it, after having unreasonably procrastinated their accession; the greatest and most mighty State in the Union, will be easily admitted, when her reluctance to an immediate accession to this system, is founded on the most reasonable grounds. When I call this the most mighty State in the Union, do I not speak the truth? Does not Virginia surpass every State in the Union, in number of inhabitants, extent of territory, felicity of position, and affluence and wealth? Some infatuation hangs over men's minds, that they will inconsiderately precipitate into measures the most important, and give not a moment's deliberation to others, nor pay any respect to their opinions. Is this federalism? Are these the beloved effects of the federal spirit, that its votaries will never accede to the just propositions of others? Sir, were there nothing objectionable in it but that, I would vote against it. I desire to have nothing to do with such men as will obstinately refuse to change their opinion. Are our opinions not to be regarded? I hope that you will recollect, that you are going to join with men who will pay no respect even to this State.

Switzerland consists of thirteen cantons expressly confederated for national defence. They have stood the shock of 400 years: That country has enjoyed internal tranquillity most of that long period. Their dissensions have been comparatively, to those of other countries, very few. What has passed in the neighbouring countries? Wars, dissensions, and intrigues. Germany involved in the most deplorable civil war, thirty years successively—Continually convulsed with intestine divisions, and harrassed by foreign wars. France with her mighty monarchy perpetually at war. Compare the peasants of Switzerland with those of any other mighty nation: You will find them far more happy—for one civil war among them, there have been five or six among other nations—Their attachment to their country, and to freedom—their resolute intrepidity in their defence; the consequent security and happiness which they have enjoyed, and the respect and awe which these things produced in their bordering nations, have signalized these republicans. Their valor, Sir, has been active; every thing that sets in motion the springs of the human heart, engaged them to the protection of their

inestimable privileges. They have not only secured their own liberty, but have been the arbiters of the fate of other people. Here, Sir, contemplate the triumph of republican Governments over the pride of monarchy. I acknowledge, Sir, that the necessity of national defence has prevailed in invigorating their councils and arms, and has been in a considerable degree the means of keeping these honest people together. But, Sir, they have had wisdom enough to keep together and render themselves formidable. Their heroism is proverbial. They would heroically fight for their Government, and their laws. One of the illumined sons of these times would not fight for those objects. Those virtuous and simple people have not a mighty and splendid President—nor enormously expensive navies and armies to support. No, Sir, those brave republicans have acquired their reputation no less by their undaunted intrepidity, than by the wisdom of their frugal and œconomical policy. Let us follow their example, and be equally happy. The Honorable member advises us to adopt a measure which will destroy our Bill of Rights. For, after hearing his picture of nations, and his reasons for abandoning all the powers retained to the States by the confederation, I am more firmly persuaded of the impropriety of adopting this new plan in its present shape.

I had doubts of the power of those who went to the Convention; but now we are possessed of it, let us examine it—When we trusted the great object of revising the Confederation to the greatest, the best, and most enlightened of our citizens, we thought their deliberations would have been solely confined to that revision. Instead of this, a new system, totally different in its nature and vesting the most extensive powers in Congress, is presented. Will the ten men you are to send to Congress, be more worthy than those seven were? If power grew so rapidly in their hands, what may it not do in the hands of others? If those who go from this State will find power accompanied with temptation, our situation must be truly critical. When about forming a Government, if we mistake the principles, or commit any other error, the very circumstance promises that power will be abused. The greatest caution and circumspection are therefore necessary—Nor does this proposed system in its investigation here, deserve the least charity.

The Honorable member [Edmund Randolph] says, that the National Government is without energy. I perfectly agree with him;—and when he cried out, *Union*, I agreed with him: But I tell him not to mistake the end for the means. The end is Union. The most capital means, I suppose, are an army, and navy: On (a) supposition I will acknowledge this; still the bare act of agreeing to that paper, though it may have an amazing influence, will not pay our millions. There must be things

to pay debts. What these things are, or how they are to be produced, must be determined by our political wisdom and œconomy.

The Honorable Gentleman alledges, that previous amendments will prevent the junction of our riches from producing great profits and emoluments which would enable us to pay our public debts, by excluding us from the Union. I believe, Sir, that a previous ratification of a system notoriously and confessedly defective, will endanger our riches—our liberty—our all.—Its defects are acknowledged—They cannot be denied. The reason offered by the Honorable Gentleman for adopting this defective system, is the adoption by eight States. I say, Sir, that if we present nothing but what is reasonable in the shape of amendments they will receive us. Union is as necessary for them as for us. Will they then be so unreasonable as not to join us? If such be their disposition, I am happy to know it in time.

The Honorable member then observed, that nations will expend millions for commercial advantages—That is, that they will deprive you of every advantage if they can. Apply this another way.—Their cheaper way—instead of laying out millions in making war upon you, will be to corrupt your Senators. I know that if they be not above all price, they may make a sacrifice of our commercial interests. They may advise your President to make a treaty that will not only sacrifice all your commercial interests, but throw prostrate your Bill of Rights. Does he fear (that) their ships will out number ours on the ocean, or that nations whose interest comes in contrast with ours, in the progress of their guilt, will perpetrate the vilest expedients to exclude us from a participation in commercial advantages? Does he advise us, in order to avoid this evil, to adopt a Constitution, which will enable such nations to obtain their ends by the more easy mode of contaminating the principles of our Senators? Sir, if our Senators will not be corrupted it will be because they will be good men; and not because the Constitution provides against corruption, for there is no real check secured in it, and the most abandoned and profligate acts may with impunity be committed by them.

With respect to Maryland—What danger from thence? I know none. I have not heard of any hostility premeditated or committed. Ninetenths of the people have not heard of it. Those who are so happy as to be illumined, have not informed their fellow-citizens of it. I am so valiant as to say, that no danger can come from that source, sufficient to make me abandon my republican principles.—The Honorable Gentleman ought to have recollected, that there were no tyrants in America, as there are in Europe.—The citizens of republican borders are only terrible to tyrants—Instead of being dangerous to one another,

they mutually support one another's liberties. We might be confederated with the adopting States, without ratifying this system. No form of Government renders a people more formidable.—A confederacy of States joined together becomes strong as the United Netherlands.—The Government of Holland (execrated as it is) proves that the present Confederation is adequate to every purpose of human association. There are seven Provinces confederated together for a long time, containing numerous opulent cities and many of the finest ports in the world.—The recollection of the situation of that country, would make me execrate monarchy. The singular felicity and success of that people are unparalleled—Freedom has done miracles there in reclaiming land from the ocean. It is the richest spot on the face of the globe. Have they no men or money? Have they no fleets or armies? Have they no arts or sciences among them? How did they repel the attacks of the greatest nations in the world? How have they acquired their amazing affluence<sup>27</sup> and power? Did they consolidate Government, to effect these purposes as we do? No, Sir, they have triumphed over every obstacle and difficulty; and have arrived at the summit of political felicity, and of uncommon opulence, by means of a confederacy; that very Government which Gentlemen affect to despise. They have, Sir, avoided a consolidation as the greatest of evils. They have lately, it is true, made one advance to that fatal progression. This misfortune burst on them by iniquity and artifice. *That Stadtholder, that Executive Magistrate*, contrived it in conjunction with other European nations. It was not the choice of the people. Was it owing to *his energy* that this happened? If two provinces have paid nothing, what have not the rest done? And have not these two provinces made other exertions? Ought they, to avoid this inconvenience, to have consolidated their different States, and have a ten miles square? Compare that little spot, nurtered by liberty, with the fairest country in the world. Does not Holland possess a powerful navy and army, and a full treasury? They did not acquire these by debasing the principles and trampling on the rights of their citizens. Sir, they acquired these by their industry, œconomy, and by the freedom of their Government. Their commerce is the most extensive in Europe: Their credit is unequalled: Their felicity will be an eternal monument of the blessings of liberty: Every nation in Europe is taught by them what they are, and what they ought to be. The contrast between those nations and this happy people, is the most splendid spectacle for republicans. The greatest cause of exultation and triumph to the sons of freedom. While other nations, precipitated by the rage of ambition or folly, have, in the pursuit of the most magnificent projects, rivetted the fetters of bondage on themselves



and descendants, these republicans secured their political happiness and freedom. Where is there a nation to be compared to them? Where is there now, or where was there ever a nation, of so small a territory, and so few in number, so powerful—so wealthy—so happy? What is the cause of this superiority? Liberty, Sir, the freedom of their Government. Though they are now unhappily in some degree consolidated, yet they have my acclamations, when put in contrast with those millions of their fellow-men who lived and died slaves. The dangers of a consolidation ought to be guarded against in this country. I shall exert my poor talents to ward them off. Dangers are to be apprehended in whatever manner we proceed; but those of a consolidation are the most destructive. Let us leave no expedient untried to secure happiness; but whatever be our decision, I am consoled, if American liberty will remain entire only for half a century—and I trust that mankind in general, and our posterity in particular, will be compensated for every anxiety we now feel.

Another Gentleman [George Nicholas] tells us, that no inconvenience will result from the exercise of the power of taxation by the General Government; that two shillings out of ten may be saved by the impost; and that four shillings may be paid to the federal collector, and four to the State collector. A change of Government will not pay money. If from the probable amount of the impost, you take the enormous and extravagant expences, which will certainly attend the support of this great Consolidated Government, I believe you will find no reduction of the public burthens by this new system. The splendid maintenance of the President and of the members of both Houses; and the salaries and fees of the swarm of officers and dependants on the Government will cost this Continent immense sums. Double sets of collectors will double the expence. To these are to be added oppressive excise-men and custom-house officers. Sir, the people have an hereditary hatred to custom-house officers. The experience of the mother country leads me to detest them. They have introduced their baneful influence into the administration and destroyed one of the most beautiful systems that ever the world saw. Our forefathers enjoyed liberty there while that system was in its purity—but it is now contaminated by influence of every kind.

The stile of the Government (we the people) was introduced perhaps to recommend it to the people at large, to those citizens who are to be levelled and degraded to the lowest degree; who are likened to a *herd*<sup>(c)</sup>; and who by the operation of this *blessed* system are to be transformed from respectable independent citizens, to abject, dependent subjects or slaves. The Honorable Gentleman has anticipated what we

are to be reduced to, by degradingly assimilating our citizens to a herd.—(Here Governor *Randolph* arose, and declared that he did not use that word to excite any odium, but merely to convey an idea of a multitude.)—Mr. *Henry* replied, that it made a deep impression on his mind, and that he verily believed, that system would operate as he had said.—He then continued. I will exchange that *abominable* word for requisitions—requisitions which Gentlemen affect to despise, have nothing degrading in them. On this depends our political prosperity. I never will give up that *darling* word requisitions—My country may give it up—A majority may wrest it from me, but I will never give it up till my grave. Requisitions are attended with one singular advantage. They are attended by deliberation.—They secure to the States the benefit of correcting oppressive errors. If our Assembly thought requisitions erroneous—If they thought the demand was too great, they might at least supplicate Congress to reconsider,—that it was a little too much. The power of direct taxation was called by the Honorable Gentleman [Edmund Randolph] the soul of the Government: Another Gentleman [Francis Corbin], called it the lungs of the Government. We all agree, that it is the most important part of the body politic. If the power of raising money be necessary for the General Government, it is no less so for the States. If money be the vitals of Congress, is it not precious for those individuals from whom it is to be taken? Must I give my soul—my lungs, to Congress? Congress must have our souls. The State must have our souls. This is dishonorable and disgraceful. These two co-ordinate, interfering unlimited powers of harrassing the community, are unexampled: It is unprecedented in history: They are the visionary projects of modern politicians: Tell me not of imaginary means, but of reality: This political solecism will never tend to the benefit of the community. It will be as oppressive in practice as it is absurd in theory. If you part with this which the Honorable Gentleman tells you is the soul of Congress, you will be inevitably ruined. I tell you, they shall not have the soul of Virginia. They tell us, that one collector may collect the Federal and State taxes. The General Government being paramount to the State Legislatures; if the Sheriff is to collect for both; his right hand for the Congress, his left for the State; his right hand being paramount over the left, his collections will go to Congress. We will have the rest. Defficiencies in collections will always operate against the States. Congress being the paramount supreme power, must not be disappointed. Thus Congress will have an unlimited, unbounded command over the soul of this Commonwealth. After satisfying their uncontroled demands, what can be left for the States? Not a sufficiency even to defray the expence of their internal

administration. They must therefore glide imperceptibly and gradually out of existence. This, Sir, must naturally terminate in a consolidation. If this will do for other people, it never will do for me.

If we are to have one Representative for every 30,000 souls it must be by implication. The Constitution does not positively secure it. Even say it is a natural implication, why not give us a right to that proportion in express terms, in language that could not admit of evasions or subterfuges? If they can use implication *for* us, they can also use implication *against* us. We are *giving* power, they are *getting* power, judge then, on which side the implication will be used. When we once put it in their option to assume constructive power, danger will follow. Trial by jury and liberty of the press, are also on this foundation of implication. If they encroach on these rights, and you give your implication for a plea, you are cast; for they will be justified by the last part of it, which gives them full power, "To make all laws which shall be necessary and proper to carry their powers into execution." Implication is dangerous, because it is unbounded: If it be admitted at all, and no limits be prescribed, it admits of the utmost extension. They say that every thing that is not given is retained. The reverse of the proposition is true by implication. They do not carry their implication so far when they speak of the general welfare. No implication when the sweeping clause comes. Implication is only necessary when the existence of privileges is in dispute. The existence of powers is sufficiently established. If we trust our dearest rights to implication, we shall be in a very unhappy situation.

Implication in England has been a source of dissention. There has been a war of implication between the King and people. For 100 years did the mother country struggle under the uncertainty of implication. The people insisted (that) their rights were implied: The Monarch denied the doctrine. Their Bill of Rights in some degree terminated the dispute. By a bold implication, they said they had a right to bind us in all cases whatsoever. This constructive power we opposed, and successfully. Thirteen or fourteen years ago, the most important thing that could be thought of, was to exclude the possibility of construction and implication. These, Sir, were then deemed perilous. The first thing that was thought of, was a Bill of Rights. We were not satisfied with your constructive argumentative rights.

Mr. *Henry* then declared, a Bill of Rights indispensably necessary; that a general positive provision should be inserted in the new system, securing to the States and the people, every right which was not conceded to the General Government; and that every implication should

be done away. It being now late, he concluded by observing, that he would resume the subject another time.

The Committee then rose—And on motion, *Resolved*, That this Convention will, on Monday next, again resolve itself into a Committee of the whole Convention, to take into farther consideration, the proposed Constitution of Government.

And then the Convention adjourned until Monday morning, ten o'clock.

(a) *Alluding to a motion made in the House of Delegates in the year 1784, to enable Congress to compel the delinquent States to pay their respective quotas, by means of an armed force.*

(b) *Alluding to his Excellency's letter on that subject to the Speaker of the House of Delegates.*

(c) *Governor Randolph had cursorily mentioned the word herd in his second speech.*

1. This day's minutes were printed in the *Virginia Independent Chronicle* on 11 June (Mfm:Va.) and reprinted in the *Pennsylvania Journal* on the 21st. An excerpt appeared in the *Norfolk and Portsmouth Journal* on 18 June, and excerpts or summaries were printed outside of Virginia twelve times between 13 and 30 June: N.Y. (5), N.J. (1), Pa. (3), Md. (1), S.C. (2).

2. For the manuscript version of this report, see Mfm:Va. For more on this disputed election, see Louisa County Election (II above) and Convention Debates, 21 June (below).

3. On 1 June 1787, John Adams signed an agreement for a Dutch loan of one million florins (\$400,000). The loan was necessary, in part, to pay interest due on Dutch loans obtained the previous June. On 11 October, Congress approved the loan (JCC, XXXIII, 412–15, 649).

4. For this "scheme," see RCS:Va., 490n–91n. For another commentary on this "scheme," see George Nicholas' Convention speech on 10 June (RCS:Va., 1133).

5. For the text of the Massachusetts amendments, see CC:508; and for their circulation in Virginia, see RCS:Va., 437n.

6. On 1 March 1781, Maryland became the last state to sign the Articles of Confederation, and on 16 March a report, largely in the handwriting of James Madison, was laid before Congress, recommending an amendment to the Articles that would have given Congress the power to use force against a state that refused to pay its share of congressional requisitions. (For the text of the proposed amendment, see CDR, 141–43.)

7. See Article VIII of the Articles of Confederation (CDR, 89). In 1783 Congress proposed an amendment to change the method of apportionment from the value of lands to population (CDR, 148–50).

8. In this speech, James Madison relied on his notes concerning ancient and modern confederacies, some of which he had made as early as 1786. Madison also used these notes to outline the history of confederacies in *The Federalist* 18, 19, and 20, published between 7 and 11 December (CC:330, 333, 340). (For these notes, some of them designed for use in the Virginia Convention, see Rutland, *Madison*, IX, 3–24; X, 273–83.)

9. See John de Witt, *Political Maxims of the State of Holland . . .* (London, 1743), 254–59. In 1662 this book was originally published anonymously in Dutch by its author, Peter de la Court, who included two chapters (29 and 30) probably written by the Dutch patriot and republican, John de Witt (1625–1672). (De Witt was the Grand Pensionary

of Holland from 1653 to 1672.) In 1669, Court published a revised and enlarged edition. In 1702 the work was first translated into English and published under De Witt's name.

10. In 1643 the colonies of Massachusetts, New Plymouth, Connecticut, and New Haven signed articles of confederation or union creating the "United Colonies of New England." They had come together to protect themselves against incursions by the Dutch, French, and Indians, and to form a united front in negotiating with these groups. They also hoped that the union would help to settle disputes over boundaries. The articles of confederation guaranteed each colony its independence and territorial integrity. Two commissioners from each colony were to meet annually and on extraordinary occasions. With the vote of six commissioners, the confederation could declare war, make peace, apportion military expenses, and settle boundary disputes. The union was sometimes ineffective because Massachusetts, the most powerful member, refused to treat the others as equals and occasionally defied the league. Moreover, England did not recognize agreements that the league made with the French or Dutch. The commissioners met annually from 1643 to 1664, triennially after that until 1684, and for the last time in 1689.

In early January 1788, Madison had received (from Rufus King) a copy of the articles of confederation and extracts from the journals of the commissioners (King to Madison, 6 January, Rutland, *Madison*, X, 351). Although Madison listed the "United Colonies" in a set of his notes on confederacies, he included no details about it (*ibid.*, 274), nor did he mention it in *The Federalist*.

11. In 1753 the British Board of Trade, concerned about the problem of defense against the French and wanting to stop the fighting among the tribes of the Iroquois Nation, called a general colonial conference to meet in Albany, N.Y. In June 1754, twenty-three representatives from the colonies of New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, Pennsylvania, and Maryland met with the Iroquois. Among other things, the conference adopted a plan of union, largely the work of Benjamin Franklin. The plan called for a "general government" administered by a president-general appointed and supported by the Crown, and a grand council of delegates chosen by the colonial legislatures. Each colony would be represented according to its financial contribution to the general treasury. The grand council would have, according to Franklin, "a concentration of the powers of the several Assemblies in certain points for the general welfare." It would be concerned with Indian treaties and with the trade, defense, and settlement of the West. It was also empowered to raise armies and equip vessels and levy taxes for their support. The president-general, like the royal governors, had a veto power over legislation. Neither the Crown nor the colonial legislatures adopted the "Albany Plan of Union."

James Madison's knowledge of the "Albany Plan of Union" was probably based upon his familiarity with Benjamin Franklin's *Political, Miscellaneous, and Philosophical Pieces* (London, 1779). Franklin's writings on the Albany Conference are found on pages 85-143, under the heading "Albany Papers" (Rutland, *Madison*, X, 274, 282n).

12. The Articles of Confederation required that they be ratified by all of the state legislatures before they went into effect. Maryland, the last state, adopted the Articles on 2 February 1781 and its congressional delegates signed them on 1 March (CDR, 135-37).

13. Madison refers to Commander in Chief George Washington's June 1783 circular letter to the executives of the states which was reprinted in the *Virginia Independent Chronicle* on 4 June 1788 (V below). For the text of the letter, see CC:4.

14. Madison refers to Virginia's call of the Annapolis Convention and its appointment of delegates to the Constitutional Convention (RCS:Va., xxxiv-xxxvi, 538-42).

15. See note 4 (above).

16. See particularly Virginia's violation of the provisions of the Treaty of Peace concerning the payment of British debts (RCS:Va., xxv-xxvii. For Secretary of Foreign Affairs John Jay's October 1786 report on American treaty violations, see JCC, XXXI, 822-27.).

17. Madison possibly refers to the Marquis of Carmarthen, the British Foreign Secretary, who had exasperated American minister John Adams in his negotiations for a commercial treaty with Great Britain. Carmarthen often criticized Americans because they did not abide by the terms of the Treaty of Peace. His attitude toward the United States is well illustrated in a letter that Adams wrote on 14 February 1788 to Secretary for Foreign Affairs John Jay. Adams noted: "His Lordship then, immediately Said, 'I presume Mr Adams that the States will all immediately adopt the new Constitution. I have read it with Pleasure. it is very well drawn up.' All this oracular Utterance, was to Signify to me what has all along been insinuated, that there is not as yet any national Government; but that as soon as there shall be one, the British Court will vouchsafe to treat with it.—You will see, by the Morning Chronicle of the 12 of Feb. inclosed that Mr Grenville's Speech is in the Same Strain: so that we may conclude it to be the concerted Language of the Cabinet'" (PCC, Item 84, Letters from John Adams, 1777–88, VI, 595–96). Jay turned Adams's letter over to Congress which received and read it on 14 May (JCC, XXXIV, 153, 153n). Five days later, Cyrus Griffin, the President of Congress, wrote Madison that Congress had heard from Adams and "That the Courtiers jest very much upon our debilitated situation, but all seem to think that the new Constitution if adopted will place this Country upon a respectable foundation—and untill that period arrives they can have no permanent Intercourse with us" (Rutland, *Madison*, XI, 53. See also Griffin to Madison, 26 May, III above, and Edward Carrington to Madison, 28 May, Rutland, *Madison*, XI, 61–62.).

18. In mid-May, congressional delegate John Brown had sent Madison (upon his request) statements of the foreign and domestic debts of the United States which Madison received on 25 May (Brown to Madison, 12 May, and Madison to Brown, 27 May, both in III above). For figures on the U.S. foreign debt, see CC:560, note 7.

19. These figures were probably taken from the statements of the foreign and domestic debts of the United States that John Brown had sent to Madison in May. (See note 18, immediately above.)

20. Henry paraphrases Article 1 of the Virginia Declaration of Rights (RCS:Va., 530).

21. See "The Publication of Edmund Randolph's Reasons for Not Signing the Constitution," 27 December, RCS:Va., 260–75.

22. See Edmund Randolph's speech at the beginning of the Convention debates on 6 June (RCS:Va., 971).

23. Patrick Henry, governor at the time of Philips' trial, was incorrect; Philips was tried according to common law. (See Convention Debates, 6 June, note 5, above.)

24. In his speech of 6 June, Randolph said that the Northern Neck would join Maryland if Virginia left the Union (Convention Debates, 6 June, RCS:Va., 979).

25. See Article IX of the Articles of Confederation (CDR, 92).

26. In 1777 Vermont broke away from New York, declared its independence, and sought admission into the Union. Between that date and 1782, the issue of Vermont statehood was volatile and violence broke out. In December 1782, Congress severely rebuked Vermont and threatened to use force against it. The reply of Vermont's governor was contemptuous of both Congress and the Continental Army. Congress dropped the matter.

27. In the 1805 edition of the *Debates* "affluence" was replaced by "influence."

**The Virginia Convention**  
**Monday**  
**9 June 1788**

**Debates<sup>1</sup>**

The Convention then, according to the order of the day, again resolved itself into a Committee of the whole Convention, to take into farther consideration, the proposed plan of Government.—Mr. *Wythe* in the Chair.

*(The first and second sections still under consideration.)*

Mr. *Henry*.<sup>2</sup>—Mr. Chairman,—I find myself again constrained to trespass on the patience of this Committee. I wish there was a prospect of union in our sentiments—so much time would not then be taken up. But when I review the magnitude of the subject under consideration, and of the dangers which appear to me in this new plan of Government, and compare thereto, my poor abilities to secure our rights, it will take much more time, in my poor unconnected way, to traverse the objectionable parts of it.—There are friends here, who will be abler than myself to make good those objections which to us appear well founded. If we recollect, on last Saturday, I made some observations on some of those dangers, which these Gentlemen would fain persuade us hang over the citizens of this Commonwealth, to induce us to change the Government, and adopt the new plan. Unless there be great and awful dangers, the change is dangerous, and the experiment ought not to be made. In estimating the magnitude of these dangers, we are obliged to take a most serious view of them, to handle them, and to be familiar with them. It is not sufficient to feign mere imaginary dangers: There must be a dreadful reality. The great question between us, is, does that reality exist? These dangers are partially attributed to bad laws, execrated by the community at large. It is said, the people wish to change the Government. I should be happy to meet (them) on that ground. Should the people wish to change it, we should be innocent of the dangers. It is a fact, that the people do not wish to change their Government. How am I to prove it? It will rest on my bare assertion, unless supported by an internal conviction in men's breasts. My poor say-so is a mere non-entity. But, Sir, I am persuaded that four-fifths of the people of Virginia must have amendments to the new plan, to reconcile them to a change of their Government.<sup>3</sup> It is a slippery foundation for the people to rest their political salvation on my or their assertions. No Government can

flourish unless it be founded on the affection of the people. Unless Gentlemen can be sure, that this new system is founded on that ground, they ought to stop their career.

I will not repeat what the Gentlemen say—I will mention one thing. There is a dispute between us and the Spaniards about the right of navigating the Mississippi. This dispute has sprung from the Federal Government. I wish a great deal to be said on this subject. I wish to know the origin and progress of the business, as it would probably unfold great dangers. In my opinion the preservation of that river calls <for> our most serious consideration. It has been agitated in Congress. Seven States have voted so as that it is known to the Spaniards, that under our existing system, the Mississippi shall be taken from them. Seven States wished to relinquish this river to them. The six southern States opposed it.<sup>4</sup> Seven States not being sufficient to convey it away; it remains now ours. If I am wrong, there is a number on this floor, who can contradict the facts—I will readily retract. This new Government, I conceive, will enable those States who have already discovered their inclination that way, to give away this river. Will the Honorable Gentleman advise us to relinquish this inestimable navigation, and place formidable enemies on our backs? This weak, this poor Confederation cannot secure us. We are resolved to take shelter under the shield of Federal authority in America. The southern parts of America have been protected by that weakness so much execrated. I hope this will be explained. I was not in Congress when these transactions took place. I may not have charged every fact. I may have misrepresented matters. I hope to be fully acquainted with every thing relative to the subject. Let us hear how the great and important right of navigating that river has been attended to; and whether I am mistaken in my opinion, that federal measures will lose it to us forever. If a bare majority of Congress can make laws, the situation of our western citizens is dreadful.

We are threatened from danger for the non-payment of the debt due to France. We have information come from an illustrious citizen of Virginia, who is now in Paris [Thomas Jefferson], which disproves the suggestions of such danger. This citizen has not been in the airy regions of theoretic speculation. Our Ambassador is this worthy citizen. The Ambassador of the United States of America, is not so despised as the Honorable Gentleman [Edmund Randolph] would make us believe.<sup>5</sup> A servant of a Republic is as much respected as that of a Monarch. The Honorable Gentleman tells us, that hostile fleets are to be sent to make reprisals upon us—Our Ambassador tells you, that the King of France has taken into consideration, to enter into commercial



regulations on reciprocal terms with us, which will be of peculiar advantage to us.<sup>6</sup> Does this look like hostility? I might go further—I might say, not from public authority, but good information, that his opinion is, that you reject this Government.—His character and abilities are in the highest estimation—He is well acquainted in every respect, with this country—Equally so with the policy of the European nations. This illustrious citizen advises you to reject this Government, till it be amended.<sup>7</sup> His sentiments coincide entirely with ours. His attachment to, and services done for this country, are well known. At a great distance from us, he remembers and studies our happiness. Living in splendour and dissipation, he thinks yet of Bills of Rights—Thinks of those little despised things called maxims—Let us follow the sage advice of this common friend of our happiness. It is little usual for nations to send armies to collect debts. The House of Bourbon, that great friend of America, will never attack her for the unwilling delay of payment. Give me leave to say, that Europe is too much engaged about objects of greater importance to attend to us. On that great theatre of the world, the little American matters vanish. Do you believe, that the mighty Monarch of France, beholding the greatest scenes that ever engaged the attention of a Prince of that country, will divert himself from those important objects, and now call for a settlement of accounts with America? This proceeding is not warranted by good sense. The friendly disposition to us, and the actual situation of France, render the idea of danger from that quarter absurd.—Would this countryman of ours be fond of advising us to a measure which he knew to be dangerous? And can it be reasonably supposed, that he can be ignorant of any premeditated hostility against this country? The Honorable Gentleman [Edmund Randolph] may suspect the account, but I will do our friend the justice to say, that he would warn us of any danger from France.

Do you suppose the Spanish Monarch will risk a contest with the United States, when his feeble Colonies are exposed to them? Every advance the people here make to the westward, makes him tremble for Mexico and Peru.—Despised as we are among ourselves, under our present Government, we are terrible to that Monarchy. If this be not a fact, it is generally said so.

We are in the next place frightened by dangers from Holland. We must change our Government to escape the wrath of that Republic.—Holland groans under a Government like this new one. A Stadtholder, Sir, a Dutch President has brought on that country, miseries which will not permit them to collect debts with fleets or armies. The wife of a Dutch Stadtholder brought 100,000 men against that Republic,

and prostrated all opposition.<sup>8</sup> This President will bring miseries on us like those of Holland. Such is the condition of European affairs, that it would be *unsafe for them to send* fleets or armies to collect debts. But here, Sir, they make a transition to objects of another kind—We are presented with dangers of a very uncommon nature. I am not acquainted with the arts of painting. Some Gentlemen have a peculiar talent for them. They are practised with great ingenuity on this occasion. As a counterpart to what we have already been intimidated with, we are told, that some lands have been sold, which cannot be found;<sup>9</sup> and that this will bring war on this country. Here the picture will not stand examination. Can it be supposed, that if a few land speculators and jobbers have violated the principles of probity, that it will involve this country in war? Is there no redress to be otherwise obtained, even admitting the delinquents and sufferers to be numerous? When Gentlemen are thus driven to produce imaginary dangers, to induce this Convention to assent to this change, I am sure it will not be uncandid to say, that the change itself is really dangerous.—Then the Maryland compact is broken, and will produce perilous consequences.<sup>10</sup> I see nothing very terrible in this. The adoption of the new system will not remove the evil. Will they forfeit good neighbourhood with us, because the compact is broken?—Then the disputes concerning the Carolina line are to involve us in dangers. A strip of land running from the westward of the Allegany to the Mississippi, is the subject of this pretended dispute. I do not know the length or breadth of this disputed spot. Have they not regularly confirmed our right to it, and relinquished all claims to it? I can venture to pledge, that the people of Carolina will never disturb us.<sup>11</sup> The strength of this despised country has settled an immense tract of country to the westward.—Give me leave to remark, that the Honorable Gentleman's [Edmund Randolph] observations on our frontiers, North and South, East and West, are all inaccurate.

Will Maryland fight against this country for seeking amendments? Were there not 60 members in that State who went in quest of amendments?<sup>12</sup> Sixty against 8 or 10 were in favor of pursuing amendments. Shall they fight us for doing what they themselves have done? They have sought amendments, but differently from the manner in which I wish amendments to be got. The Honorable Gentleman may plume himself on this difference. Will they fight us for this dissimilarity? Will they fight us for seeking the object they seek themselves? When they do, it will be time for me to hold my peace.—Then, Sir, comes Pennsylvania, in terrible array. Pennsylvania is to go in conflict with Virginia. Pennsylvania has been a good neighbour heretofore. She is federal—

Something terrible—Virginia cannot look her in the face. If we sufficiently attend to the actual situation of things, we will conclude, that Pennsylvania will do what we do. A number of that country are strongly opposed to it. Many of them have lately been convinced of its fatal tendency. They are disgorged of their federalism. I beseech you to bring this matter home to yourselves. Was there a possibility for the people of that State to know the reasons of adopting that system, or understand its principles, in so very short a period after its formation? This is the middle of June. Those transactions happened last August. The matter was circulated by every effort of industry, and the most precipitate measures taken to hurry the people into adoption.—Yet now, after having had several months since to investigate it, a very large part of this community, a great majority of this community, do not understand it. I have heard Gentlemen of respectable abilities declare, they did not understand it. If after great pains, men of high learning, who have received the aids of a regular education, do not understand it; if the people of Pennsylvania understood it in so short a time, it must have been from intuitive understandings, and uncommon accuteness of perception. Place yourselves in their situation—Would you fight your neighbours for considering this great and awful matter? If you wish for real amendments, such as the security of the trial by jury, it will reach the hearts of the people of that State. Whatever may be the disposition of the aristocratical politicians of that country, I know there are friends of human nature in that State. If so, they will never make war on those who make professions of what they are attached to themselves.

As to the danger arising from borderers, it is mutual and reciprocal. If it be dangerous for Virginia, it is equally so for them. It will be their true interest to be united with us. The danger of our being their enemies, will be a prevailing argument in our favor. It will be as powerful to admit us into the Union, as a vote of adoption without previous amendments could possibly be.—Then the savage Indians are to destroy us. We cannot look them in the face. The danger is here divided; they are as terrible to the other States as to us: But, Sir, it is well known that we have nothing to fear from them. Our back settlers are considerably stronger than them. Their superiority increases daily. Suppose the States (to) be confederated all (a)round us, what we want in number, we shall make up otherwise. Our compact situation and natural strength will secure us. But to avoid all dangers, we must take shelter under the Federal Government. Nothing gives a decided importance but this Federal Government. You will *sip sorrow*, according

to the vulgar phrase, if you want any other security than the laws of Virginia.

A number of characters of the greatest eminence in this country, object to this Government, for its consolidating tendency. This is not imaginary. It is a formidable reality. If consolidation proves to be as mischievous to this country, as it has been to other countries, what will the poor inhabitants of this country do? This Government will operate like an ambuscade. It will destroy the State Governments, and swallow the liberties of the people, without giving them previous notice. If Gentlemen are willing to run the hazard, let them run it; but I shall exculpate myself by my opposition, and monitory warnings within these walls. But, then comes paper money. We are at peace on this subject.<sup>13</sup> Though this is a thing which that mighty Federal Convention had no business with, yet I acknowledge that paper money would be the bane of this country. I detest it. Nothing can justify a people in resorting to it, but extreme necessity. It is at rest however in this Commonwealth. It is no longer solicited or advocated. Sir, I ask you, and every other Gentleman who hears me, if he can retain his indignation, at a system, which takes from the State Legislatures the care and preservation of the interests of the people; 180 Representatives, the choice of the people of Virginia cannot be trusted with their interests. They are a mobbish suspected *herd*. This country has not virtue enough to manage its own internal interests. These must be referred to the chosen ten. If we cannot be trusted with the private contracts of the citizens, we must be depraved indeed. If he can prove, that by one uniform system of abandoned principles, the Legislature has betrayed the rights of the people, then let us seek another shelter. So degrading an indignity—so flagrant an out-rage to the States—so vile a suspicion is humiliating to my mind, and many others.

Will the adoption of this new plan pay our debts? This, Sir, is a plain question. It is inferred, that our grievances are to be redressed, and the evils of the existing system to be removed by the new Constitution. Let me inform the Honorable Gentleman [Edmund Randolph], that no nation ever paid its debts by a change of Government, without the aid of industry. You never will pay your debts but by a radical change of domestic œconomy. At present you buy too much, and make too little to pay. Will this new system promote manufactures, industry and frugality? If instead of this, your hopes and designs will be disappointed; you relinquish a great deal, and hazard infinitely more, for nothing. Will it enhance the value of your lands? Will it lessen your burthens? Will your looms and wheels go to work by the act of adoption? If it will in its consequence produce these things, it

will consequently produce a reform, and enable you to pay your debts. Gentlemen must prove it. I am a sceptic—an infidel on this point. I cannot conceive that it will have these happy consequences. I cannot confide in assertions and allegations. The evils that attend us, lie in extravagance and want of industry, and can only be removed by assiduity and œconomy. Perhaps we shall be told by Gentlemen, that these things will happen, because the administration is to be taken from us, and placed in the hands of the luminous few, who will pay different attention, and be more studiously careful than we can be supposed to be. With respect to the œconomical operation of the new Government, I will only remark, that the national expences will be increased—if not doubled it will approach it very near. I might, without incurring the imputation of illiberality or extravagance, say, that the expence will be multiplied ten-fold. I might tell you of a numerous standing army—a great powerful navy—a long and rapacious train of officers and dependents, independent of the President, Senators and Representatives, whose compensations are without limitation. How are our debts to be discharged unless the taxes are increased, when the expences of Government are so greatly augmented? The defects of this system are so numerous and palpable, and so many States object to it, that no Union can be expected, unless it be amended. Let us take a review of the facts. New-Hampshire and Rhode-Island have rejected it. They have refused to become Federal. New-York and North-Carolina are reported to be strongly against it. From high authority, give me leave to tell, that New-York is in high opposition.<sup>14</sup> Will any Gentleman say that North-Carolina is not against it? They may say so, but I say, that the adoption of it in those two States amounts to entire uncertainty. The system must be amended before these four States will accede to it—Besides, there are several other States who are dissatisfied, and wish alterations—Massachusetts has, in decided terms, proposed amendments; but by her previous ratification, has put the cart before the horse. Maryland instituted a committee to propose amendments. It then appears, that two States have actually refused to adopt—Two of those who have adopted, have a desire of amending. And there is a probability of its being rejected by New-York and North-Carolina. The other States have acceded without proposing amendments. With respect to them, local circumstances have, in my judgment, operated to produce its unconditional instantaneous adoption. The locality of the seat of Government, ten miles square, and the seat of justice, with all their concomitant emoluments, operated so powerfully with the first adopting State, that it was adopted without taking time to reflect.—We are told that numerous advantages

will result from the concentration of the wealth and grandeur of the United States in one happy spot; to those who will reside in or near it. Prospects of profit and emoluments have a powerful influence on the human mind. We, Sir, have no such projects, as that of a grand seat of Government for thirteen States, and perhaps for 100 States hereafter. Connecticut and New-Jersey have their localities also. New-York lies between them. They have no ports, and are not importing States. New-York is an importing State, and taking advantage of its situation, makes them pay duties for all the articles of their consumption: Thus, these two States, being obliged to import all they want, through the medium of New-York, pay the particular taxes of that State.—I know the force and effect of reasoning of this sort, by experience. When the impost was proposed some years ago, those States which were not importing States, readily agreed to concede to Congress, the power of laying an impost on all goods imported for the use of the Continental treasury. Connecticut and New-Jersey therefore, are influenced by advantages of trade in their adoption. The amounts of all imposts are to go into one common treasury. This favors adoption by the non-importing States; as they participate in the profits which were before exclusively enjoyed by the importing States. Notwithstanding this obvious advantage to Connecticut, there is a formidable minority there against it. After taking this general review of American affairs, as respecting federalism, will the Honorable Gentleman [Edmund Randolph] tell me, that he can expect Union in America? When so many States are pointedly against it; when two adopting States have pointed out, in express terms, their dissatisfaction as it stands; and when there is so respectable a body of men discontented in every State, can the Honorable Gentleman promise himself harmony, of which he is so fond? If he can, I cannot. To me it appears unequivocally clear, that we shall not have that harmony. If it appears to the other States, that our aversion is founded on just grounds, will they not be willing to indulge us? If disunion will really result from Virginia's proposing amendments, will they not wish the re-establishment of the Union, and admit us, if not on such terms as we prescribe, yet on advantageous terms? Is not Union as essential to their happiness, as to ours? Sir, without a radical alteration, the States will never be embraced in one federal pale. If you attempt to force it down men's throats, and call it Union, dreadful consequences must follow.

He [Edmund Randolph] has said a great deal of disunion and the dangers that are to arise from it—When we are on the subject of Union and dangers, let me ask, how will his present doctrine hold with what has happened? Is it consistent with that noble and disinterested con-

duct, which he displayed on a former occasion? Did he not tell us that he withheld his signature? Where then were the dangers which now appear to him so formidable? He saw all America eagerly confiding, that the result of their deliberations would remove their distresses. He saw all America acting under the impulses of hope, expectation and anxiety, arising from their situation, and their partiality for the members of that Convention: Yet his enlightened mind, knowing that system to be defective, magnanimously and nobly refused its approbation. He was not led by the illumined—the illustrious few. He was actuated by the dictates of his own judgment; and a better judgment than I can form. He did not stand out of the way of information. He must have been possessed of every intelligence. What alteration have a few months brought about? The internal difference between right and wrong does not fluctuate. It is immutable. I ask this question as a public man, and out of no particular view. I wish, as such, to consult every source of information, to form my judgment on so awful a question. I had the highest respect for the Honorable Gentleman's abilities. I considered his opinion as a great authority. He taught me, Sir, in despite of the approbation of that great Federal Convention, to doubt of the propriety of that system. When I found my Honorable friend in the number of those who doubted, I began to doubt also. I coincided with him in opinion. I shall be a staunch and faithful disciple of his. I applaud that magnanimity which led him to withhold his signature. If he thinks now differently, he is as free as I am. Such is my situation, that as a poor individual I look for information every where. This Government is so new it wants a name. I wish its other novelties were as harmless as this. He told us, we had an American Dictator in the year 1781.<sup>15</sup>—We never had an American President. In making a Dictator, we follow the example of the most glorious, magnanimous and skilful nations. In great dangers this power has been given.—Rome had furnished us with an illustrious example.—America found a person worthy of that trust: She looked to Virginia for him. We gave a dictatorial power to hands that used it gloriously; and which were rendered more glorious by surrendering it up. Where is there a breed of such Dictators? Shall we find a set of American Presidents of such a breed? Will the American President come and lay prostrate at the feet of Congress his laurels? I fear there are few men who can be trusted on that head. The glorious republic of Holland has erected monuments of her warlike intrepidity and valor: Yet she is now totally ruined by a Stadtholder—a Dutch President. The destructive wars into which that nation has been plunged, has since involved her in ambition. The glorious triumphs of Blenheim and Ramillies<sup>16</sup> were not so conform-

able to the genius, nor so much to the true interest of the republic, as those numerous and useful canals and dykes, and other objects at which ambition spurns. That republic has, however, by the industry of its inhabitants, and policy of its magistrates, suppressed the ill effects of ambition.—Notwithstanding two of their provinces have paid nothing, yet I hope the example of Holland will tell us, that we can live happily without changing our present despised Government. Cannot people be as happy under a mild, as under an energetic Government? Cannot content and felicity be enjoyed in a republic, as well as in a monarchy, because there are whips, chains and scourges used in the latter? If I am not as rich as my neighbour, if I give my mite—my all—republican forbearance will say, that it is sufficient—So said the honest confederates of Holland.—*You are poor—We are rich.—We will go on and do better, far better, than be under an oppressive Government.*—Far better will it be for us to continue as we are, than go under that tight energetic Government.—I am persuaded of what the Honorable Gentleman says, that separate confederacies will ruin us. In my judgment, they are evils never to be thought of till a people are driven by necessity.—When he asks my opinion of consolidation—of one power to reign over America, with a strong hand; I will tell him, I am persuaded, of the rectitude of my honorable friend's opinion (Mr. Mason) that one Government cannot reign over so extensive a country as this is, without absolute despotism. Compared to such a consolidation, small Confederacies are little evils; though they ought to be recurred to, but in case of necessity.—Virginia and North-Carolina are despised. They could exist separated from the rest of America. Maryland and Vermont were not over-run when out of the Confederacy. Though it is not a desirable object, yet I trust, that on examination it will be found, that Virginia and North-Carolina would not be swallowed up in case it was necessary for them to be joined together.

When we come to the spirit of domestic peace—The humble genius of Virginia has formed a Government, suitable to the genius of her people. I believe the hands that formed the American Constitution triumph in the experiment. It proves, that the man who formed it, and perhaps by accident, did what design could not do in other parts of the world. After all your reforms in Government, unless you consult the genius of the inhabitants, you will never succeed—your system can have no duration. Let me appeal to the candour of the Committee, if the want of money be not the source of all our misfortunes. We cannot be blamed for not making dollars. This want of money cannot be supplied by changes in Government. The only possible remedy, as I *have before* asserted, is industry aided by œconomy. Compare the genius



of the people with the Government of this country. Let me remark, that it stood the severest conflict, during the war, to which ever human virtue has been called. I call upon every Gentleman here to declare, whether the King of England had any subjects so attached to his family and Government—so loyal as we were. But the genius of Virginia called us for liberty.—Called us from those beloved endearments, which from long habits we were taught to love and revere. We entertained from our earliest infancy, the most sincere regard and reverence for the mother country. Our partiality extended to a predilection for her customs, habits, manners and laws. Thus inclined, when the deprivation of our liberty was attempted, what did we do? What did the genius of Virginia tell us? *Sell all and purchase liberty*. This was a severe conflict. Republican maxims were then esteemed—those maxims, and the genius of Virginia, landed you safe on the shore of freedom. On this awful occasion, did you want a Federal Government? Did federal ideas possess your minds? Did federal ideas lead you to the most splendid victories? I must again repeat the favorite idea, that the genius of Virginia did, and will again lead us to happiness. To obtain the most splendid prize, you did not consolidate. You accomplished the most glorious ends, by the assistance of the genius of your country. Men were then taught by that genius, that they were fighting for what was most dear to them. View the most affectionate father—the most tender mother—operated on by liberty, nobly stimulating their sons—their dearest sons—sometimes their only son, to advance to the defence of his country. We have seen sons of Cincinnatus, without splendid magnificence or parade, going, with the genius of their great progenitor Cincinnatus, to the plough—Men who served their country without ruining it—Men who had served it to the destruction of their private patrimonies—Their country owing them amazing amounts, for the payment of which no adequate provision was then made. We have seen such men, throw prostrate their arms at your feet. They did not call for those emoluments, which ambition presents to some imaginations. The soldiers, who were able to command every thing, instead of trampling on those laws, which they were instituted to defend, most strictly obeyed them. The hands of justice have not been laid on a single American soldier. Bring them into contrast with European veterans. You will see an astonishing superiority over the latter. There has been a strict subordination to the laws. The Honorable Gentleman's office [Edmund Randolph as attorney general, 1776–86] gave him an opportunity of viewing if the laws were administered so as to prevent riots, routs, and unlawful assemblies. From his then situation, he could have furnished us with the instances in which licentiousness trampled on the laws.—

Among all our troubles we have paid almost to the last shilling, for the sake of justice: We have paid as well as any State: I will not say better.<sup>17</sup> To support the General Government, our own Legislature, to pay the interest of the public debts, and defray contingencies, we have been heavily taxed. To add to these things, the distresses produced by paper money, and by tobacco contracts, were sufficient to render any people discontented. These, Sir, were great temptations; but in the most severe conflict of misfortunes, this code of laws—this genius of Virginia, call it what you will, triumphed over every thing.

Why did it please the Gentleman (Mr. *Corbin*) to bestow such epithets on our country? Have the worms taken possession of the wood, that our strong vessel—our political vessel, has sprung a-leak?<sup>18</sup> He may know better than me, but I consider such epithets to be the most illiberal and unwarrantable aspersions on our laws. The system of laws under which we have lived, has been tried and found to suit our genius. I trust we shall not change this happy system. I cannot so easily take leave of an old friend. Till I see him following after and pursuing other objects, which can pervert the great objects of human legislation, pardon me if I withhold my assent.

Some here speak of the difficulty in forming a new code of laws. Young as we were, it was not wonderful if there was a difficulty in forming and assimilating one system of laws. I shall be obliged to the Gentleman, if he would point out those glaring, those great faults. The efforts of assimilating our laws to our genius has not been found altogether vain.—I shall pass over some other circumstances which I intended to mention, and endeavor to come to the capital objection, which my Honorable friend [George Mason] made. My worthy friend said, that a republican form of Government would not suit a very extensive country; but that if a Government were judiciously organized and limits prescribed to it; an attention to these principles might render it possible for it to exist in an extensive territory. Whoever will be bold to say, that a Continent can be governed by that system, contradicts all the experience of the world. It is a work too great for human wisdom. Let me call for an example. Experience has been called the best teacher. I call for an example of a great extent of country, governed by one Government, or Congress, call it what you will. I tell him, that a Government may be trimmed up according to Gentlemen's fancy, but it never can operate—It will be but very short-lived. However disagreeable it may be to lengthen my objections, I cannot help taking notice of what the Honorable Gentleman [Edmund Randolph] said. To me it appears that there is no check in that Government. The President, Senators, and Representatives all immediately, or mediately,

are the choice of the people. Tell me not of checks on paper; but tell me of checks founded on self-love. The English Government is founded on self-love. This powerful irresistible stimulus of self-love has saved that Government. It has interposed that hereditary nobility between the King and Commons. If the House of Lords assists or permits the King to overturn the liberties of the people, the same tyranny will destroy them; they will therefore keep the balance in the democratic branch. Suppose they see the Commons inroad upon the King; self-love, that great energetic check, will call upon them to interpose: For, if the King be destroyed, their destruction must speedily follow. Here is a consideration which prevails, in my mind, to pronounce the British Government, superior in this respect to any Government that ever was in any country. Compare this with your Congressional checks. I beseech Gentlemen to consider, whether they can say, when trusting power, that a mere patriotic profession will be equally operative and efficacious, as the check of self-love. In considering the experience of ages, is it not seen, that fair disinterested patriotism, and professed attachment to rectitude have never been solely trusted to by an enlightened free people?—If you depend on your President's and Senators' patriotism, you are gone. Have you a resting place like the British Government? Where is the rock of your salvation? The real rock of political salvation is *self-love* perpetuated from age to age in every human breast, and manifested in every action. If they can stand the temptations of human nature, you are safe. If you have a good President, Senators and Representatives, there is no danger.—But can this be expected from human nature? Without real checks it will not suffice, that some of them are good. A good President, or Senator, or Representative, will have a natural weakness—Virtue will slumber. The wicked will be continually watching: Consequently you will be undone. Where are your checks? You have no hereditary Nobility—An order of men, to whom human eyes can be cast up for relief: For, says the Constitution, there is no title of nobility to be granted; which, by the bye, would not have been so dangerous, as the perilous cession of powers contained in that paper: Because, as Montesquieu says, when you give titles of Nobility, you know what you give: but *when you give power, you know not what you give*.—If you say, that out of this depraved mass, you can collect luminous characters, it will not avail, unless this luminous breed will be propagated from generation to generation; and even then, if the number of vicious characters will preponderate, you are undone. And that this will certainly be the case, is, to my mind, perfectly clear.—In the British Government there are real balances and checks—In this system, there are only ideal balances. Till I am con-

vinced that there are actual efficient checks, I will not give my assent to its establishment. The President and Senators have nothing to lose. They have not that interest in the preservation of the Government, that the King and Lords have in England. They will therefore be regardless of the interests of the people. The Constitution will be as safe with one body, as with two. It will answer every purpose of human legislation. How was the Constitution of England when only the Commons had the power? I need only remark, that it was the most unfortunate æra when that country returned to King, Lords and Commons, without sufficient responsibility in the King. When the Commons of England, in the manly language which became freemen, said to their King, *you are our servant*, then the temple of liberty was complete. From that noble source, have we derived our liberty:—That spirit of patriotic attachment to one's country:—That zeal for liberty, and that enmity to tyranny which signalized the then champions of liberty, we inherit from our British ancestors. And I am free to own, that if you cannot love a Republican Government, you may love the British Monarchy; for, although the King is not sufficiently responsible, the responsibility of his agents, and the efficient checks interposed by the British Constitution, render it less dangerous than other Monarchies, or oppressive tyrannical Aristocracies. What are their checks of exposing accounts?—Their checks upon paper are inefficient and nugatory.—Can you search your President's closet? Is this a real check? We ought to be exceeding cautious, in giving up this life—this soul—of money—this power of taxation to Congress. What powerful check is there here to prevent the most extravagant and profligate squandering of the public money? What security have we in money matters? Enquiry is precluded by this Constitution. I never wish to see Congress suplicate the States: But it is more abhorrent to my mind to give them an unlimited and unbounded command over our souls—our lives—our purses, without any check or restraint. How are you to keep enquiry alive? How discover their conduct? We are told by that paper, that a regular statement and account of the receipts and expenditures of all public money, shall be published from time to time. Here is a beautiful check! What time? Here is the utmost latitude left. If those who are in Congress please to put that construction upon it, the words of the Constitution will be satisfied by publishing those accounts once in 100 years. They may publish or not as they please. Is this like the present despised system, whereby the accounts are to be published monthly?

I come now to speak something of requisitions, which the Honorable Gentleman [Edmund Randolph] thought so truly contemptible and disgraceful. That Honorable Gentleman being a child of the revolution,

must recollect with gratitude the glorious effects of requisitions. It is an idea that must be grateful to every American. An English army was sent to compel us to pay money contrary to our consent. To force us by arbitrary and tyrannical coercion to satisfy their unbounded demands. We wished to pay with our own consent.—Rather than pay against our consent, we engaged in that bloody contest, which terminated so gloriously. By requisitions we pay with our own consent; by their means we have triumphed in the most arduous struggle, that ever tried the virtue of man. We fought then, for what we are contending now: To prevent an arbitrary deprivation of our property, contrary to our consent and inclination. I shall be told in this place, that those who are to tax us are our Representatives. To this I answer, that there is no real check to prevent their ruining us. There is no actual responsibility. The only semblance of a check is the negative power of not re electing them. This, Sir, is but a feeble barrier when their personal interest, their ambition and avarice come to be put in contrast with the happiness of the people. All checks founded on any thing but self-love, will not avail. This Constitution reflects in the most degrading and mortifying manner on the virtue, integrity, and wisdom of the State Legislatures: It presupposes that the chosen few who go to Congress will have more upright hearts, and more enlightened minds, than those who are members of the individual Legislatures. To suppose that ten Gentlemen shall have more real substantial merit, than 170 is humiliating to the last degree. If, Sir, the diminution of numbers be an augmentation of merit, perfection must centre in one. If you have the faculty of discerning spirits, it is better to point out at once the man who has the most illumined qualities. If 10 men be better than 170, it follows of necessity, that one is better than 10—The choice is more refined.

Such is the danger of the abuse of implied power, that it would be safer at once to have seven Representatives, the number to which we are now entitled,<sup>19</sup> than depend on the uncertain and ambiguous language of that paper. The number may be lessened instead of being increased; and yet by argumentative constructive implied power, the proportion of taxes may continue the same, or be increased.—Nothing is more perilous than constructive power, which Gentlemen are so willing to trust their happiness to.

If Sheriffs prove now an over-match for our Legislature: If their ingenuity has eluded the vigilance of our laws, how will the matter be amended when they come cloathed with federal authority? A strenuous argument offered by Gentlemen, is, that the same Sheriffs may collect for the Continental and State treasuries. I have before shewn, that this

must have an inevitable tendency to give a decided preference to the federal treasury in the actual collections, and to throw all deficiencies on the State. This imaginary remedy for the evil of Congressional taxation will have another oppressive operation. The Sheriff comes to-day as a State collector—next day he is federal—How are you to fix him? How will it be possible to discriminate oppressions committed in one capacity, from those perpetrated in the other? Will not his ingenuity perplex the simple honest planter? This will at least involve in difficulties, those who are unacquainted with legal ingenuity. When you fix him, where are you to punish him? For, I suppose, they will not stay in our Courts: They must go to the Federal Court; for, if I understand that paper right, all controversies arising under that Constitution; or, under the laws made in pursuance thereof, are to be tried in that Court. When Gentlemen told us, that this part deserved the least exception, I was in hopes, they would prove that there was plausibility in their suggestions, and that oppression would probably not follow. Are we not told, that it shall be treason to levy war against the United States? Suppose an insult offered to the federal laws at an immense distance from Philadelphia, will this be deemed treason? And shall a man be dragged many hundred miles to be tried as a criminal, for having perhaps justifiably resisted an unwarrantable attack upon his person or property? I am not well acquainted with federal jurisprudence; but it appears to me that these oppressions must result from this part of the plan.—It is at least doubtful, and where there is even a possibility of such evils, they ought to be guarded against.

There are to be a number of places fitted out for arsenals and dockyards in the different States. Unless you sell to Congress such places as are proper for these, within your State, you will not be consistent after adoption; it results therefore clearly that you are to give into their hands, all such places as are fit for strong holds. When you have these fortifications and garrisons within your State, your State Legislature will have no power over them, though they see the most dangerous insults offered to the people daily.—They are also to have magazines in each State: These depositaries for arms, though within the State, will be free from the controul of its Legislature. Are we at last brought to such a humiliating and debasing degradation, that we cannot be trusted with arms for our own defence? Where is the difference between having our arms in our own possession and under our own direction, and having them under the management of Congress? If our defence be the *real* object of having those arms, in whose hands can they be trusted with more propriety, or equal safety to us, as in

our own hands? If our Legislature be unworthy of legislating for every foot in this State, they are unworthy of saying another word.

The clause which says, that Congress shall "provide for arming, organizing, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively, the appointment of the officers," seemed to put the States in the power of Congress. I wished to be informed, if Congress neglected to discipline them, whether the States were not precluded from doing it. Not being favored with a particular answer, I am confirmed in my opinion, that the States have not the power of disciplining them, without recurring to the doctrine of constructive implied powers. If by implication the States may discipline them, by implication also, Congress may officer them; because, in a partition of power, each has a right to come in for a part; and because implication is to operate in favor of Congress on all occasions, where their object is the extension of power, as well as in favor of the States. We have not one-fourth of the arms that would be sufficient to defend ourselves. The power of arming the militia, and the means of purchasing arms, are taken from the States by the paramount powers of Congress. If Congress will not arm them, they will not be armed at all.

There have been no instances shewn of a voluntary cession of power, sufficient to induce me to grant the most dangerous powers: A possibility of their future relinquishment will not persuade me to yield such powers.

Congress by the power of taxation—by that of raising an army, and by their controul over the militia, have the sword in one hand, and the purse in the other. Shall we be safe without either? Congress have an unlimited power over both: They are entirely given up by us. Let him candidly tell me, where and when did freedom exist, when the sword and purse were given up from the people? Unless a miracle in human affairs interposed, no nation ever retained its liberty after the loss of the sword and purse. Can you prove by any argumentative deduction, that it is possible to be safe without retaining one of these? If you give them up you are gone. Give us at least a plausible apology why Congress should keep their proceedings in secret. They have the power of keeping them secret as long as they please; for the provision for a periodical publication is too inexplicit and ambiguous to avail any thing. The expression *from time to time* as I have more than once observed, admits of any extension. They may carry on the most wicked and pernicious of schemes, under the dark veil of secrecy. The liberties of a people never were nor ever will be secure, when the transactions

of their rulers may be concealed from them. The most iniquitous plots may be carried on against their liberty and happiness. I am not an advocate for divulging indiscriminately all the operations of Government, though the practice of our ancestors in some degree justifies it. Such transactions as relate to military operations, or affairs of great consequence, the immediate promulgation of which might defeat the interests of the community, I would not wish to be published, till the end which required their secrecy should have been effected. But to cover with the veil of secrecy, the common routine of business, is an abomination in the eyes of every intelligent man, and every friend to his country.

(Mr. *Henry* then, in a very animated manner, expatiated on the evil and pernicious tendency of keeping secret the common proceedings of Government; and said that it was contrary to the practice of other free nations. The people of England, he asserted, had gained immortal honor by the manly boldness wherewith they divulged to all the world, their political disquisitions and operations; and that such a conduct inspired other nations with respect. He illustrated his argument(s) by several quotations.)—He then continued,—I appeal to this Convention if it would not be better for America to take off the veil of secrecy. *Look at us—hear our transactions.* If this had been the language of the Federal Convention, what would have been the result? Such a Constitution would not have come out to your utter astonishment, conceding such dangerous powers, and recommending secrecy in the future transactions of Government. I believe it would have given more general satisfaction, if the proceedings of that Convention had not been concealed from the public eye. This Constitution authorizes the same conduct. There is not an English feature in it. The transactions of Congress may be concealed a century from the public, consistently with the Constitution. This, Sir, is a laudable imitation of the transactions of the Spanish treaty. We have not forgotten with what a thick veil of secrecy those transactions were covered.<sup>20</sup>

We are told that this Government collectively taken, is without an example—That it is national in this part, and federal in that part, &c. We may be amused if we please, by a treatise of political anatomy. In the brain it is national: The stamina are federal—some limbs are federal—others national. The Senators are voted for by the State Legislatures, so far it is federal.—Individuals choose the members of the first branch; here it is national. It is federal in conferring general powers; but national in retaining them. It is not to be supported by the States.—The pockets of individuals are to be searched for its maintenance. What signifies it to me, that you have the most curious an-



atomical description of it in its creation? To all the common purposes of Legislation it is a great consolidation of Government. You are not to have a right to legislate in any but trivial cases: You are not to touch private contracts: You are not to have the right of having arms in your own defence: You cannot be trusted with dealing out justice between man and man. What shall the States have to do? Take care of the poor—repair and make high-ways—erect bridges, and so on, and so on. Abolish the State Legislatures at once. What purposes should they be continued for? Our Legislature will indeed be a ludicrous spectacle—180 men marching in solemn farcical procession, exhibiting a mournful proof of the lost liberty of their country—without the power of restoring it. But, Sir, we have the consolation that it is a mixed Government: That is, it may work sorely on your neck; but you will have some comfort by saying, that it was a Federal Government in its origin.

I beg Gentlemen to consider—lay aside your prejudices—Is this a Federal Government? Is it not a Consolidated Government for every purpose almost? Is the Government of Virginia a State Government after this Government is adopted? I grant that it is a Republican Government—but for what purposes? For such trivial domestic considerations, as render it unworthy the name of a Legislature. I shall take leave of this political anatomy, by observing that it is the most extraordinary that ever entered into the imagination of man. If our political diseases demand a cure—this is an unheard of medicine. The Honorable member, I am convinced, wanted a name for it. Were your health in danger, would you take new medicine? I need not make use of these exclamations; for every member in this Committee must be alarmed at making new and unusual experiments in Government. Let us have national credit and a national treasury in case of war. You never can want national resources in time of war; if the war be a national one; if it be necessary, and this necessity *(be)* obvious to the meanest capacity. The utmost exertions will be used by the people of America in that case. A republic has this advantage over a monarchy, that its wars are generally founded on more just grounds. A republic can never enter into a war, unless it be a national war—unless it be approved of, or desired by the whole community. Did ever a republic fail to use the utmost resources of the community when a war was necessary? I call for an example. I call also for an example, when a republic has been engaged in a war contrary to the wishes of its people. There are thousands of examples, where the ambition of its Prince *(has)* precipitated a nation into the most destructive war. No nation ever withheld power when its object was just and right. I will hazard

an observation; I find fault with the paper before you, because the same power that declares war, has the power to carry it on. Is it so in England? The King declares war: The House of Commons gives the means of carrying it on. This is a strong check on the King. He will enter into no war that is unnecessary; for the Commons having the power of withholding the means, will exercise that power, unless the object of the war be for the interest of the nation. How is it here? The Congress can both declare war, and carry it on; and levy your money, as long as you have a shilling to pay.

I shall now speak a little of the Colonial confederacy which was proposed at Albany. Massachusetts did not give her consent to the project at Albany, so as to consolidate with the other Colonies.<sup>21</sup> Had there been a consolidation at Albany, where would have been their charter? Would that confederacy have preserved their charter from Britain? The strength and energy of the then designed Government would have crushed American opposition.

The American revolution took its origin from the comparative weakness of the British Government; not being concentrated in one point. A concentration of the strength and interest of the British Government in one point, would have rendered opposition to its tyrannies fruitless.—For want of that consolidation do we now enjoy liberty, and the privilege of debating at this moment. I am pleased with the Colonial establishment. The example which the Honorable member has produced, to persuade us to depart from our present confederacy, rivets me to my former opinion, and convinces me that consolidation must end in the destruction of our liberties.

The Honorable Gentleman [Edmund Randolph] has told us of our ingratitude to France. She does not intend to take payment by force. Ingratitude shall not be laid to my charge. I wish to see the friendship between this country, and that magnanimous ally, perpetuated. Requisitions will enable us to pay the debt we owe (to) France and other countries. She does not desire us to go from our beloved Republican Government. The change is inconsistent with our engagements with those nations. It is cried out that those in opposition wish disunion. This is not true. They are the most strenuous friends to it. This Government will clearly operate disunion.—If it be heard on the other side of the Atlantic, that you are going to disunite and dissolve the confederacy: what says France? Will she be indifferent to an event that will so radically affect her treaties with us? Our treaty with her is founded on the confederation—We are bound to her as 13 States confederated. What will become of the treaty? It is said that treaties will be on a better footing. How so? Will the President, Senate and

House of Representatives be parties to them? I cannot conceive how the treaties can be as binding if the confederacy is dissolved, as they are now. Those nations will not continue their friendship then: They will become our enemies. I look on the treaties as the greatest pillars of safety. If the House of Bourbon keeps us, we are safe. Dissolve that confederacy—who has you? The British. Federalism will not protect you from the British. Is a connexion with that country more desirable? I was amazed when Gentlemen forgot the friends of America. I hope that this dangerous change will not be effected. It is safe for the French and Spaniards, that we should continue to be Thirteen States—But it is not so, that we should be consolidated into one Government. They have settlements in America—Will they like schemes of popular ambition? Will they not have some serious reflections? You may tell them you have not changed your situation; but they will not believe you. If there be a real check intended to be left on Congress, it must be left in the State Government(s). There will be some check, as long as the Judges are uncorrupt. As long as they are upright, you may preserve your liberty. But what will the Judges determine when the State and Federal authority come to be contrasted? Will your liberty then be secure, when the Congressional laws are declared paramount to the laws of your State, and the Judges are sworn to support them?

I am constrained to make a few remarks on the absurdity of adopting this system, and relying on the chance of getting it amended afterwards. When it is confessed to be replete with defects, is it not offering to insult your understandings, to attempt to reason you out of the propriety of rejecting it, till it be amended? Does it not insult your judgments to tell you—adopt first, and then amend? Is your rage for novelty so great, that you are first to sign and seal, and then to retract? Is it possible to conceive a greater solecism? I am at a loss what to say. You agree to bind yourselves hand and foot—For the sake of what?—Of being unbound. You go into a dungeon—For what? To get out. Is there no danger when you go in, that the bolts of federal authority shall shut you in? Human nature never will part with power. Look for an example of a voluntary relinquishment of power, from one end of the globe to another—You will find none. Nine-tenths of our fellow men have been, and are now depressed by the most intolerable slavery, in the different parts of the world; because the strong hand of power has bolted them in the dungeon of despotism. Review the present situation of the nations of Europe, which is pretended to be the freest quarter of the globe. Cast your eyes on the countries called free there. Look at the country from which we are descended, I beseech you; and although we are separated by everlasting insuperable partitions, yet

there are some virtuous people there who are friends to human nature and liberty. Look at Britain—see there, the bolts and bars of power—see bribery and corruption defiling the fairest fabrick that ever human nature reared. Can a Gentleman who is an Englishman, or who is acquainted with the English history, desire to prove these evils? See the efforts of a man descended from a friend of America—see the efforts of that man, assisted even by the King, to make reforms. But you find the faults too strong to be amended. Nothing but bloody war can alter them.<sup>22</sup>—See Ireland—That country groaned from century to century, without getting their Government amended. Previous adoption was the fashion there. They sent for amendments *from time to time*, but never obtained them, though pressed by the severest oppression, till 80,000 volunteers demanded them sword in hand<sup>23</sup>—Till the power of Britain was prostrate; when the American resistance was crowned with success. Shall we do so? If you judge by the experience of Ireland, you must obtain the amendments as early as possible.—But, I ask you again, where is the example that a Government was amended by those who instituted it? Where is the instance of the errors of a Government rectified by those who adopted them.

I shall make a few observations to prove, that the power over elections, which is given to Congress, is contrived by the Federal Government, that the people may be deprived of their proper influence in the Government; by destroying the force and effect of their suffrages. Congress is to have a discretionary controul over the time, place and manner of elections. The Representatives are to be elected consequently, when and where they please. As to the time and place, Gentlemen have attempted to obviate the objection by saying, that the time is to happen once in two years, and that the place is to be within a particular district, or in the respective counties. But how will they obviate the danger of referring the *manner* of election to Congress? Those illumined Genii, may see that this may not endanger the rights of the people; but to my unenlightened understanding, it appears plain and clear, that it will impair the popular weight in the Government. Look at the Roman history. They had two ways of voting: The one by tribes, and the other by centuries. By the former, numbers prevailed: In the latter, riches preponderated. According to the mode prescribed, Congress may tell you, that they have a right to make the vote of one Gentleman go as far as the votes of 100 poor men. The power over the manner admits of the most dangerous latitude. They may modify it as they please. They may regulate the number of votes by the quantity of property, without involving any repugnancy to the Constitution. I should not have thought of this trick or contrivance had I not seen

how the public liberty of Rome was trifled with by the mode of voting by centuries, whereby one rich man had as many votes as a multitude of poor men. The plebians were trampled on till they resisted. The patricians trampled on the liberties of the plebians, till the latter had spirit to assert their right to freedom and equality. The result of the American mode of election may be similar.—Perhaps I shall be told, that I have gone through the regions of fancy—that I deal in noisy exclamations, and mighty professions of patriotism. Gentlemen may retain their opinions; but I look on that paper as the most fatal plan, that could possibly be conceived to enslave a free people.—If such be your rage for novelty, take it and welcome, but you never shall have my consent. My sentiments may appear extravagant, but I can tell you, that a number of my fellow-citizens have kindred sentiments—And I am anxious that if my country should come into the hands of tyranny, to exculpate myself from being in any degree the cause; and to exert my faculties to the utmost to extricate her. Whether I am gratified or not in my beloved form of Government, I consider that the more she is plunged into distress, the more it is my duty to relieve her. Whatever may be the result, I shall wait with patience till the day may come, when an opportunity shall offer to exert myself in her cause.

But I should be led to take that man to be a lunatic, who should tell me to run into the adoption of a Government, avowedly defective, in hopes of having it amended afterwards. Were I about to give away the meanest particle of my own property, I should act with more prudence and discretion. My anxiety and fears are great, lest America by the adoption of this system, should be cast into a fathomless bottom.—Mr. *Henry* then concluded, that as he had not gone through all he intended to say, he hoped he would be indulged another time.

Mr. *Lee*, of *Westmoreland*.—Mr. Chairman.—When I spoke before, and called on the Honorable Gentleman (Mr. *Henry*) to come forward and give his reasons for his opposition, in a systematic manner; I did it from a love of order, and respect for the character of the Honorable Gentleman; having no other motives, but the good of my country. As he seemed so solicitous that the truth should be brought before the Committee on this occasion, I thought I could not do more properly, than to call on him for his reasons for standing forth the champion of opposition. I took the liberty to add, that the subject belonged to the judgments of the Gentlemen of the Committee, and not to their passions. I am obliged to him for his politeness in this Committee; but as the Honorable Gentleman seems to have discarded in a great measure, solid argument and strong reasoning, and has established a new system of throwing those bolts, which he has so peculiar a dexterity

at discharging; I trust I shall not incur the displeasure of the Committee, by answering the Honorable Gentleman in the desultory manner in which he has treated the subject. I shall touch a few of those *luminous* points which he has entertained us with. He told us the other day, that the enemies of the Constitution were firm supporters of liberty; and implied that its friends were not republicans. This may have been calculated to make impressions disadvantageous to those Gentlemen who favor this new plan of Government; and impressions of that kind are not easily eradicated. I conceive that I may say with truth, that the friends of that paper are true republicans, and by no means less attached to liberty, than those who oppose it. The verity of this does not depend on my assertion, but on the lives, and well known characters of different Gentlemen in different parts of the Continent.—I trust the friends of that Government, will oppose the efforts of despotism as well as its opposers.

Much is said by Gentlemen out of doors. They ought to urge all their objections here. I hope they will offer them here. I shall confine myself to what is said here. In all his rage for democracy, and zeal for the rights of the people, how often does he express his admiration of that King and Parliament over the Atlantic? But we republicans are contemned and despised. Here, Sir, I conceive that *implication* might operate against himself.

He tells us that he is a staunch republican, and that he adores liberty. I believe him, and when I do so, I wonder that he should say, that a Kingly Government is superior to that system which we admire.—He tells you that it cherishes a standing army, and that militia alone ought to be depended upon for the defence of every free country.—There is not a Gentleman in this House—There is no man without these walls (not even the Gentleman himself) who admires the militia more than I do. Without vanity I may say, I have had different experience of their service, from that of the Honorable Gentleman. It was my fortune to be a soldier of my country. In the discharge of my duty, I knew the worth of militia. I have seen them perform feats that would do honor to the first veterans, and submitting to what would daunt German soldiers. I saw what the Honorable Gentleman did not see—Our men fighting with the troops of that King which he so much admires. I have seen proofs of the wisdom of that paper on your table. I have seen incontrovertible evidence that militia cannot always be relied upon. I could enumerate many instances, but one will suffice. Let the Gentleman recollect the action of Guildford.<sup>24</sup> The American regular troops behaved there with the most gallant intrepidity. What did the militia do? The greatest numbers of them fled. Their abandonment of

the regulars occasioned the loss of the field. Had the line been supported that day, Cornwallis, instead of surrendering at York, would have laid down his arms at Guildford.

This plan provides for the public defence as it ought to do. Regulars are to be employed when necessary; and the service of the militia will always be made use of. This, Sir, will promote agricultural industry and skill, and military discipline and science.

I cannot understand the implication of the Honorable Gentleman, that because Congress may arm the militia, the States cannot do it: Nor do I understand the reverse of the proposition. The States are by no part of the plan before you, precluded from arming and disciplining the militia, should Congress neglect it. In the course of Saturday, and some previous harangues, from the terms in which some of the Northern States were spoken of, one would have thought that the love of an American was in some degree criminal; as being incompatible with a proper degree of affection for a Virginian. The people of America, Sir, are one people. I love the people of the North, not because they have adopted the Constitution; but, because I fought with them as my countrymen, and because I consider them as such.— Does it follow from hence, that I have forgotten my attachment to my native State? In all local matters I shall be a Virginian: In those of a general nature, I shall not forget that I am an American.

He has called on the House to expose the catalogue of evils which would justify this change of the Government. I appeal to Gentlemen's candour, has not a most mournful detail been unfolded here?

In the course of the debates, I have heard from those Gentlemen who have advocated the new system, an enumeration, which drew groans from my very soul; but which did not draw one sigh from the Honorable Gentleman over the way. Permit me to ask, if there be an evil which can visit mankind, so injurious and oppressive in its consequence and operation, as a tender law? If Pandora's box were on one side of me, and a tender law on the other, I would rather submit to the box than to the tender law. The principle, evil as it is, is not so base and pernicious as the application. It breaks down the moral character of your people—robs the widow of her maintenance, and defrauds the offspring of his food. The widow and orphans are reduced to misery, by receiving in a depreciated value, money which the husband and father had lent out of friendship. This reverses the natural course of things. It robs the industrious of the fruits of their labor, and often enables the idle and rapacious to live in ease and comfort at the expence of the better part of the community. Was there not another evil but the possibility of continuing such palpable injustice,

I would object to the present system. But, Sir, I will out of many more, mention another. How are your domestic creditors situated? I will not go to the general creditors. I mean the military creditor—The man who, by the vices of your system, is urged to part with his money for a trivial consideration—The poor man who has the paper in his pocket, for which he can receive little or nothing. There is a greater number of these meritorious men than the Honorable Gentleman [Patrick Henry] believes. These unfortunate men are compelled to receive paper instead of gold—Paper, which nominally represents something, but which in reality represents almost nothing. A proper Government could do them justice, but the present one cannot do it. They are therefore forced to part with that paper which they fought for, and get less than a dollar for 20 shillings. I would for my part, and I hope every other Gentleman here would, submit to the inconvenience; but when I consider that the widows of gallant heroes, with their numerous offspring, are labouring under the most distressing indigence, and that these poor unhappy people will be relieved by the adoption of this Constitution, I am still more impressed with the necessity of this change.

But says the Honorable Gentleman [Patrick Henry], we are in peace. Does he forget the insurrection in Massachusetts? Perhaps he did not extend his philanthropy to that quarter. I was then in Congress, and had a proper opportunity to know the circumstances of this event. Had *Shays* been possessed of abilities, he might have established that favorite system of the Gentleman—*King, Lords and Commons*. Nothing was wanting to bring about a revolution, but a great man to head the insurgents; but fortunately he was a worthless Captain. There were 30,000 stand of arms nearly in his power, which were defended by a pensioner of this country.<sup>25</sup> It would have been sufficient had he taken this deposit. He failed in it; but even after that failure, it was in the power of a great man to have taken it. But he wanted design and knowledge. Will you trust to the want of design and knowledge? Suppose another insurrection headed by a different man; what will follow? Under a man of capacity, the favourite Government of that Gentleman might have been established in Massachusetts and extended to Virginia.

But, Sir, this is a Consolidated Government, he tells us, and most feelingly does he dwell on the imaginary dangers of this pretended consolidation. I did suppose that an Honorable Gentleman whom I do not now see (Mr. *Madison*)<sup>26</sup> had placed this in such a clear light, that every man would have been satisfied with it.

If this were a Consolidated Government, ought it not to be ratified by a majority of the people as individuals, and not as States? Suppose



Virginia, Connecticut, Massachusetts, and Pennsylvania had ratified it; these four States being a majority of the people of America, would, by their adoption, have made it binding on all the States, had this been a Consolidated Government. But it is only the Government of those seven States who have adopted it. If the Honorable Gentleman will attend to this, we shall hear no more of consolidation.

Direct taxation is another objection, on which the Honorable Gentleman expatiates. This has been answered by several able Gentlemen; but as the Honorable Gentleman reverts to the subject, I hope I will be excused in saying a little on it. If Union be necessary, direct taxes are also necessary for its support. If it be an inconvenience, it results from the Union; and we must take its disadvantages with it: Besides, it will render it unnecessary to recur to the sanguinary method which some Gentlemen are said to admire. Had the Amphyctionic Council had the power contained in that paper, would they have sent armies to levy money? Will the Honorable Gentleman say, that it is more eligible and humane, to collect money by carrying fire and sword through the country, than by the peaceable mode of raising money of the people through the medium of an officer of peace, when it is necessary?

But says he, "The President will enslave you—Congress will trample on your liberties—A few regiments will appear—Mr. Chief Justice must give way—Our mace bearer is no match for a regiment." It was inhuman to place an individual against a whole regiment. A *few* regiments will not avail—I trust the supporters of the Government would get the better of *many* regiments. Were so mad an attempt made, the people would assemble in thousands, and drive 30 times the number of their few regiments. We would then do, as we have already done, with the regiments of that King which he so often tells us of.

The public liberty, say(s) he, is designed to be destroyed.—What does he mean? Does he mean that we who are friends to that Government, are not friends to liberty? No man dares to say so. Does he mean that he is a greater admirer of liberty than we are? Perhaps so. But I undertake to say, that when it will be necessary to struggle in the cause of freedom; he will find himself equalled by thousands of those who support this Constitution. The purse of the people of Virginia is not given up by that paper: They can take no more of our money than is necessary to pay our share of the public debts, and provide for the general welfare. Were it otherwise, no man would be louder against it than myself.

He has represented our situation, as contradistinguished from the other States. What does he mean? I ask if it be fair to attempt to

influence Gentlemen by particular applications to local interests? I say it is not fair. Am I to be told, when I come to deliberate on the interest of Virginia, that it obstructs the interest of the county of Westmoreland? Is this obstruction a sufficient reason to neglect the collective interests of Virginia? Were it of a local nature, it would be right to prefer it; but being of a general nature, the local interests must give way. I trust then that Gentlemen will consider, that the object of their deliberations is of a general nature. I disregard the argument, which insinuated the propriety of attending to localities; and I hope that the Gentlemen to whom it was addressed, regard too much the happiness of the community to be influenced by it.

But he tells you, that the Mississippi is insecure unless you reject this system, and that the transactions relating to it, were carried on under a veil of secrecy. His arguments on this subject are equally as defective, as those I have just had under consideration. But I feel myself called on by the Honorable Gentleman to come forward and tell the truth about the transactions respecting the Mississippi. In every action of my life, in which I have been concerned, whether as the soldier or politician, the good of my country was my first wish. I have attended not only to the good of the United States, but also to that of particular districts. There are men of integrity and truth here, who were also then in Congress. I call on them to put me right with respect to those transactions. As far as I could gather from what was then passing, I believe there was not a Gentleman in that Congress, who had an idea of surrendering the navigation of that river. They thought of the best mode of securing it: Some thought one way, and some another way. I was one of those men who thought the mode which has been alluded to, the best to secure it. I shall never deny that it was my opinion. I was one peculiarly interested. I had a fortune in that country, purchased, not by *paper money*, but by gold, to the amount of 8,000 pounds. But private interest could not have influenced me. The public welfare was my criterion in my opinions. I united private interest to the public interest, not of the whole people of Virginia, but of the United States. I thought I was promoting the real interest of the people.<sup>27</sup> But says he, it was under the veil of secrecy. There was no peculiar or uncommon desire manifested of concealing those transactions. They were carried on in the same manner with others of the same nature, and consonant to the principles of the Confederation. I saw no anxiety on the occasion. I wish he would send to the President to know their secrets. He would be gratified fully.

The Honorable member this day, among other things, gave us a statement, of those States that have passed the new system, of those

who have not, and of those who would probably not pass it. He called his assertions *facts*; but I expected he would shew us something to prove their existence.

He tells us, that New-Hampshire and Rhode-Island have refused it. Is that a *fact*? It is not a *fact*. New-Hampshire has not refused it. That State postponed her ultimate decision till she could know what Massachusetts would do;<sup>28</sup> And whatever the Gentleman may say of borderers, the people of that State were very right in conducting themselves as they did. With respect to Rhode-Island, I hardly know any thing. That small State has so rebelled against justice, and so knocked down the bulwarks of probity, rectitude and truth, that nothing rational or just can be expected from her. She has not however, I believe, called a Convention to deliberate on it, much less formally refused it.<sup>29</sup> From her situation it is evident, that she must adopt it, unless she departs from the primary maxims of human nature, which are those of self-preservation. New-York and North-Carolina are so high in opposition, he tells us, that they will certainly reject it. Here is another of his *facts*; and he says, he has the highest authority. As he dislikes the *veil of secrecy*, I beg he would tell us that high authority from which he gets this fact. Has he official communications? Have the Executives of those States informed him? Has our Executive been apprised of it?<sup>30</sup> I believe not. I hold his unsupported authority in contempt.

Pennsylvania, Delaware and New-Jersey have adopted, but says he, they were governed by local considerations.—What are these local considerations? The Honorable Gentleman draws advantages from every source, but his arguments operate very often against himself. I admire the State of Pennsylvania—She deserves the attachment of every lover of his country. Poor Pennsylvania, says he, has been tricked into it. What an insult! The Honorable Gentleman would not say so of an individual—I know his politeness too well. Will he insult the majority of a free country? Pennsylvania is a respectable State. Though not so extensive as Virginia, she did as much as any State, in proportion, during the war; and has done as much since the peace. She has done as much in every situation, and her citizens have been as remarkable for their virtue and science, as those of any State. The Honorable Gentleman has told you, that Pennsylvania has been tricked into it; and, in so saying, has insulted the majority of a free country, in a manner in which I would not dare to insult any private Gentleman. The other adopting States have not been tricked into it, it seems.—Why? The Honorable Gentleman cannot tell us why these *have not* been tricked into it, no more than he can tell why Pennsylvania *has* been tricked into it. Is it because of their superior power and re-

spectability; or, is it the consequence of their local situation?—But the State of New-York has too much virtue to be governed by local considerations. He insinuates this by his assertion that she will not regard the example of the other States. How can he, without being inconsistent, and without perverting facts, pretend to say, that New-York is not governed by local considerations in her opposition? Is she not influenced by the local consideration of retaining that impost of which he says, Connecticut and New-Jersey wish to get a participation?—What does he say of North-Carolina? How will local considerations affect her? If the principle be uniform, she will be led by the local consideration of wishing to get a participation of the impost of the importing States. Is it to be supposed, that she will be so blind to her own interest as to depart from this principle?

When he attempted to prove, that you ought not to adopt that paper which I admire, he told you that it was untrodden ground. This objection goes to the adoption of any Government. The British Government ought to be proposed perhaps. It is trodden ground. I know not of any reason to operate against a system, because it is untrodden ground. The Honorable Gentleman objects to the publication from time to time, as being ambiguous and uncertain. Does not *from time to time*, signify convenient time? If it admits of an extension of time, does it not equally admit of publishing the accounts at very short periods? For argument sake, say they may postpone the publications of the public accounts to the expiration of every ten years: Will their constituents be satisfied with this conduct? Will they not discard them, and elect other men who will publish the accounts as often as they ought? It is also in their power to publish every ten days. Is it not more probable, that they will do their duty, than that they will neglect it, especially as their interest is inseparably connected with their duty? He says they may conceal them for a century. Did you ever hear so trivial and so captious an argument? I *felt* when the great genius of the Gentleman nodded on that occasion. Another objection of the Honorable Gentleman, (whom I cannot follow through all his windings and turnings) is, that those parts of the Constitution which are in favour of privileges, are not so clearly expressed as those parts which concede powers. I beg your attention, because this is a leading distinction. As long as the privilege of representation is well secured, our liberties cannot be easily endangered. I conceive this is secured in this country more fully than in any other. How are we the people of America, as land-holders, compared to the people of all the world besides? Vassalage is not known here. A small quantity of land entitles a man to a freehold—Land is pretty equally divided. And the law of descents

in this country, will carry this division farther and farther; perhaps even to an extreme.<sup>31</sup> This of itself secures that great privilege. Is it so in any other country? Is it so in England? We differ in this, from all other countries. I admire this paper in this respect. It does not impair our right of suffrage. Whoever will have a right to vote for a Representative to our Legislature, will also have a right to vote for a Federal Representative. This will render that branch of Congress very democratic. We have a right to send a certain proportion. If we do not exert that right, it will be our folly.

It was necessary to provide against licentiousness, which is so natural to our climate. I dread more from the licentiousness of the people, than from the bad government of rulers. Our privileges are not however in danger: They are better secured than any bill of rights could have secured them.

I say that this new system shews in stronger terms than words could declare, that the liberties of the people are secure. It goes on the principle that all power is in the people, and that rulers have no powers but what are enumerated in that paper. When a question arises with respect to the legality of any power, exercised or assumed by Congress, it is plain on the side of the governed. *Is it enumerated in the Constitution?* If it be, it is legal and just. It is otherwise arbitrary and unconstitutional. Candour must confess, that it is infinitely more attentive to the liberties of the people than any State Government.

(Mr. Lee then said, that under the State Governments the people reserved to themselves certain enumerated rights, and that the rest were vested in their rulers. That consequently the powers reserved to the people, were but an inconsiderable exception from what was given to their rulers. But that in the Federal Government the rulers of the people were vested with certain defined powers, and that what was not delegated to those rulers were retained by the people. The consequence of this, he said, was, that the limited powers were only an exception to those which still rested in the people, that the people therefore knew what they had given up, and could be in no danger. He exemplified the proposition in a familiar manner. He observed, that if a man delegated certain powers to an agent, it would be an insult upon common sense, to suppose, that the agent could legally transact any business for his principal, which was not contained in the commission whereby the powers were delegated. But that if a man empowered his representative or agent to transact all his business, except certain enumerated parts, the clear result was, that the agent could lawfully transact every possible part of his principal's business except the enumerated parts; and added, that these plain propositions

were sufficient to demonstrate the inutility and *folly*, were he permitted to use the expression, of Bills of Rights.) He then continued,—I am convinced that that paper secures the liberty of Virginia, and of the United States.—I ask myself, if there be a single power in it, which is not necessary for the support of the Union; and as far as my reasoning goes, I say, that if you deprive it of one single power contained in it, it will be "*Vox et præterea nihil.*"<sup>32</sup> Those who are to go (to) Congress will be the servants of the people. They are created and deputed by us, and removeable by us. Is there a greater security than this in our State Government? To fortify this security, is there not a constitutional remedy in the Government, to reform any errors which shall be found inconvenient? Although the Honorable Gentleman has dwelt so long upon it, he has not made it appear otherwise.—The Confederation can neither render us happy at home, nor respectable abroad; I conceive this system will do both. The two Gentlemen [James Madison and Edmund Randolph] who have been in the Grand Convention have proved incontestibly, that the fears arising from the powers of Congress, are groundless. Having now gone through some of the principal parts of the Gentleman's [Patrick Henry] harangue, I shall take up but a few moments in replying to its conclusion.

I contend for myself, and the friends of the Constitution, that we are as great friends to liberty as he or any other person; and that we will not be behind in exertions in its defence, when it is invaded. For my part, I trust, that young as I am, I will be trusted in the support of freedom, as far as the Honorable Gentleman. I feel that indignation and contempt with respect to his previous amendments, which he expresses against posterior amendments. I can see no danger from a previous ratification. I see infinite dangers from previous amendments. I shall give my suffrage for the former, because I think the *happiness* of my country depends upon it. To maintain and secure that happiness, the first object of my wishes, I shall brave all storms and political dangers.

Governor *Randolph*.—Having consumed heretofore so much of your time, I did not intend to trouble you again so soon. But I now call on this Committee, by way of right, (to permit me) to answer some severe charges against the friends of the new Constitution. It is a right I am entitled to, and shall have. I have spoken twice in this Committee. I have shewn the principles which actuated the General Convention, and attempted to prove, that after the ratification of the proposed system, by so many States, the preservation of the Union depended on its adoption by us.—I find myself attacked, in the most illiberal manner, by the Honorable Gentleman, (Mr. *Henry*) I disdain his as-

persions, and his insinuations. His asperity is warranted by no principle of Parliamentary decency, nor compatible with the least shadow of friendship; and if our friendship must fall—*Let it fall like Lucifer, never to rise again*. Let him remember that it is not to answer him, but to satisfy this respectable audience, that I now get up. He has accused me of inconsistency in this very respectable assembly. Sir, if I do not stand on the bottom of integrity, and pure love for Virginia, as much as those who can be most clamorous, I wish to resign my existence. Consistency consists in actions, and not in empty specious words. Ever since the first entrance into that federal business, I have been invariably governed by an invincible attachment to the happiness of the people of America. Federal measures had been before that time repudiated. The augmentation of Congressional powers was dreaded. The imbecillity of the Confederation was proved and acknowledged. When I had the honor of being deputed to the Federal Convention to revise the existing system, I was impressed with the necessity of a more energetic Government, and thoroughly persuaded that the salvation of the people of America depended on an intimate and firm Union. The Honorable Gentlemen there can say, that when I went thither, no man was a stronger friend to such an Union than myself. I informed you why I refused to sign.

I understand not him who wishes to give a full scope to licentiousness and dissipation, who would advise me to reject the proposed plan, and plunge us into anarchy. (Here his Excellency read the conclusion of his public letter,<sup>33</sup> wherein he says, that notwithstanding his objections to the Constitution, he would adopt it rather than lose the Union, and proceeded to prove the consistency of his present opinion, with his former conduct; when Mr. *Henry* arose, and declared that he had no personal intention of offending any one—that he did his duty—but that he did not mean to wound the feelings of any Gentleman—that he was sorry, if he offended the Honorable Gentleman without intending it—and that every Gentleman had a right to maintain his opinion.—His Excellency then said, that he was relieved by what the Honorable Gentleman said—that were it not for the concession of the Gentleman, he would have made some men's hair stand on end, by the disclosure of certain facts. Mr. *Henry* then requested, that if he had any thing to say against him to disclose it. His Excellency then continued—That as there were some Gentlemen there who might not be satisfied by the recantation of the Honorable Gentleman, without being informed, he should give them some information on the subject. That his ambition had ever been to promote the Union,—that he was no more attached to it now than he always had been—and that he could in some degree

prove it by the paper which he held in his hand, which was his public letter. He then read a considerable part of his letter, wherein he expressed his friendship to the Union. He then informed the Committee, that on the day of election of Delegates for the Convention, for the county of Henrico, it being incumbent upon him to give his opinion, he told the respectable freeholders of that county his sentiments: That he wished not to become a member of that Convention: That he had not attempted to create a belief, that he would vote against the Constitution: That he did really unfold to them his actual opinion; which was perfectly reconcileable with the suffrage he was going to give in favor of the Constitution. He then read part of a letter which he had written to his constituents on the subject, which was expressive of sentiments amicable to an Union with the other States. He then threw down the letter on the clerk's table, and declared that it might lie there for *the inspection of the curious and malicious.*)<sup>34</sup>—He then proceeded thus,—I am asked, why I have thought proper to patronize this Government? Not because I am one of those *illumined*, but because the felicity of my country requires it. The highest honors have no allurements to charm me. If he be as little attached to public places as I am, he must be free from ambition. It is true that I am now in an elevated situation; but I consider it (as) a far less happy or eligible situation, than that of an inconsiderable land-holder. Give me peace—I ask no more. I ask no honor or gratification.—Give me public peace, and I will carve the rest for myself. The happiness of my country is my first wish. I think it necessary for that happiness, that this Constitution be now adopted; for in spite of the representation of the Honorable Gentleman, I see a storm growling over Virginia. No man has more respect for Virginia, or a greater affection for her citizens than I have; but I cannot flatter you with a kinder or more agreeable representation, while we are surrounded by so many dangers, and when there is so much rancor in the hearts of your citizens.

I beg the Honorable Gentleman to pardon me for reminding him, that his historical references and quotations are not accurate. If he errs so much with respect to his *facts*, as he has done in history, we cannot depend on his information or assertions. He had early in the debates instanced Holland as a happy democracy, highly worthy of our imitation. From thence he went over the mountains to Switzerland, to find another democracy. He represented all those cantons as being of the democratic kind. I wish he had reflected a little more, and distinguished between those that are democratical from those which are aristocratical. He has already been reminded of his errors. I should not now put him right with respect to history, had he not continued



his mistakes. Consult all writers from Sir William Temple to those of more modern times; they will inform you, that the republic of Holland is an aristocracy.<sup>35</sup> He has inveighed against the Stadtholder. I do not understand his application of this to the American President. It is well known that were it not for the Stadtholder, the republic would have been ruined long ago. Holland it seems has no ten miles square. But she has the Hague, where the Deputies of the States assemble. It has been found necessary to have a fixed place of meeting. But the influence which it has given the province of Holland to have the seat of the Government within its territory, subject in some respect to its controul, has been injurious to the other Provinces. The wisdom of the Convention is therefore manifest in granting the Congress exclusive jurisdiction over the place of their session. I am going to correct a still greater error which he has committed, not in order to shew any little knowledge of history I may have (for I am by no means satisfied with its extent) but to endeavor to prevent any impressions from being made by improper and mistaken representations.

He said that Magna Charta destroyed all implication. That was not the object of Magna Charta, but to destroy the power of the King, and secure the liberty of the people. The Bill of Rights was intended to restore the Government to its primitive principles.

We are harrassed by quotations from Holland and Switzerland, which are inapplicable in themselves, and not founded in fact.

I am surprised at his proposition of previous amendments, and his assertion, that subsequent ones will cause disunion.—Shall we not loose our influence and weight in the Government, to bring about amendments, if we propose them previously? Will not the Senators be chosen, and the electors of the President be appointed, and the Government brought instantly into action after the ratification of nine States? Is this disunion, when the effect proposed will be produced? But no man here is willing to believe what the Honorable Gentleman says on this point. I was in hopes we should come to some degree of order. I fear that order is no more. I believed that we should confine ourselves to the particular clause under consideration, and to such other clauses as might be connected with it.

Why have we been told, that maxims can alone save nations—that our maxims are our Bill of Rights—and that the liberty of the press, trial by jury, and religion, are destroyed? Give me leave to say, that the maxims of Virginia are Union and Justice.

The Honorable Gentleman has past by my observations with respect to British debts. He has thought proper to be silent on this subject. My observations must therefore have full force. Justice is, and ought

to be our maxim; and must be that of every temperate, moderate and upright man. I should not say so much on this occasion were it not that I perceive that the flowers of (reasoning) (rhetoric) are perverted in order to make impressions unfavorable and inimical to an impartial and candid decision. What security can arise from a Bill of Rights? The predilection for it, has arisen from a misconception of its principles. It cannot secure the liberties of this country. A Bill of Rights was used in England to limit the King's prerogative: He could trample on the liberties of the people, in every case which was not within the restraint of the Bill of Rights.

Our situation is radically different from that of the people of England. What have we to do with Bills of Rights? Six or seven States have none.<sup>36</sup> Massachusetts has declared her Bill of Rights as part of her Constitution. Virginia has a Bill of Rights, but it is no part of the Constitution. By not saying whether it is paramount to the Constitution or not, it has left us in confusion. Is the Bill of Rights consistent with the Constitution? Why then is it not inserted in the Constitution? Does it add any thing to the Constitution? Why is it not the Constitution? Does it except any thing from the Constitution; why not put the exceptions in the Constitution? Does it oppose the Constitution? This will produce mischief. The Judges will dispute which is paramount: Some will say, the Bill of Rights is paramount:—Others will say, that the Constitution being subsequent in point of time, must be paramount. A Bill of Rights therefore, accurately speaking, is quite useless, if not dangerous, in a republic.

I had objections to this Constitution. I still have objections to it.—(Here he read the objections which appeared in his public letter.)—The Gentleman asks, how comes it to pass that you are now willing to take it? I answer, that I see Virginia in such danger, that were its defects greater, I would adopt it. These dangers, though not immediately present to our view, yet may not be far distant, if we disunite from the other States. I will join any man in endeavouring to get amendments, after the danger of disunion is removed by a previous adoption.

The Honorable Gentleman says, that the federal spirit leads to disunion. The federal spirit is not superior to human nature, but it cannot be justly charged with having a tendency to disunion. If we were to take the Gentleman's discrimination as our guide, the spirit of Virginia would be dictatorial. Virginia dictates to eight States. A single amendment proposed as the condition of our accession, will operate total disunion. Where is the State that shall conceive itself obliged to aid

Virginia? The Honorable Gentleman says, that there is no danger. Great in imagination, but nothing in reality. What is the meaning of this? What would this State do, if opposed alone to the arms of France or Great-Britain? Would there be no danger in such a case? Was not the assistance of France necessary to enable the United States to repel the attack of Great-Britain? In the last war by Union and a judicious concert of measures, we were triumphant. Can this be the case in a future war, if we be disunited from our sister States? What would have been the consequence, if in the late war we had reposed our arms and depended on Providence alone? Shall we be ever at peace, because we are so now? Is it unnecessary to provide against future events? His objection goes to prove that Virginia can stand by herself. The advice that would attempt to convince me of so pernicious an error, I treat with disdain. Our negroes are numerous, and daily becoming more so. When I reflect on their comparative number, and comparative condition, I am the more persuaded of the great fitness of becoming more formidable than ever.

It seems that republican borderers are peaceable. This is another *lapse* in history.—Did he never know that a number of men were as much inspired with ambition as any individual? Had he consulted history, he would have known that the most destructive wars have been carried on, with the most implacable hatred between neighbouring republics. It is proved by his favorite Roman history, that republican borderers are as apt to have rancour in their hearts, as any. The institution of Lycurgus himself, could not restrain republican borderers from hostility. He treats the idea of commercial hostility as extravagant. History might inform him of its reality. Experience might give him some instruction on the subject. Go to the Potowmack, and mark what you see. I had the mortification to see vessels within a very little distance from the Virginian shore, belonging to Maryland; driven from our ports by the badness of our regulations. I take the liberty of a freeman in exposing what appears to me to deserve censure. I shall take that liberty in reprehending the wicked act which attainted Josiah Philips: Because he was not a *Socrates*,<sup>(a)</sup> is he to be attainted at pleasure? Is he to be attainted because he is not among the high of reputation? After the use the Gentleman made of a word used innocently to express a croud, I thought he would be careful himself. We are all equal in this country. I hope that with respect to birth there is no superiority. It gives me pleasure to reflect, that though a man cannot trace up his lineage, yet he is not to be despised. I shall always possess these sentiments and feelings. I shall never aspire at high offices. If my country should ever think my services worth any thing, it shall be in the humble capacity of a Representative: Higher than this

I will not aspire. He has expatiated on the turpitude of the character of Josiah Philips. Has this any thing to do with the principle on which he was attainted? We all agree that he was an abandoned man. But if you can prepare a bill, to attain a man, and pass it through both Houses in an instant, I ask you, who is safe? There is no man, on whom a cloud may not hang some time or other, if a demagogue should think proper to take advantage of it to his destruction. Philips had a commission in his pocket at that time. He was therefore only a prisoner of war.<sup>37</sup> This precedent may destroy the best man in the community; when he was arbitrarily attainted merely because he was not a *Socrates*.

He has perverted my meaning with respect to our Government. I spoke of the Confederation. He took no notice of this. He reasoned of the Constitution of Virginia. I had said nothing of it on that occasion. Requisitions, however, he said, were safe and adviseable, because they give time for deliberation. Will not taxation do this? Will not Congress, when laying a tax, bestow a thought upon it?—But he means to say, that the State itself ought to say, whether she pleases to pay or not. Congress by the Confederation has power to make any requisitions. The States are constitutionally bound to pay them. We have seen their happy effects. When the requisitions are right, and duly proportioned, it is in the power of any State to refuse to comply with them.

He says, that he would give them the impost. I cannot understand him, as he says he has an hereditary hatred to custom-house officers. Why despise them? Why should the people hate them? I am afraid he has accidentally discovered the principle, that will lead him to make greater opposition than can be justified by any thing in the Constitution. I would undertake to prove the fallacy of every observation he made on that occasion: But it is too late now to add any more. At another opportunity I shall give a full refutation of all he has said.

The Committee then rose—And on motion, *Resolved*, That this Convention will, to-morrow, again resolve itself into a Committee of the whole Convention, to take into farther consideration, the proposed Constitution of Government.

And then the Convention adjourned until to-morrow morning, ten o'clock.

(a) *Mr. Henry had said that Philips was not a Socrates.*<sup>38</sup>

1. This day's minutes were printed in the *Virginia Independent Chronicle* on 11 June (Mfm:Va.) and were reprinted in the *Norfolk and Portsmouth Journal* on the 18th and the *Pennsylvania Journal* on the 21st. On 13 June the *Baltimore Maryland Gazette* and the *Maryland Journal* both reported that on Monday, 9 June, a "very warm" debate had taken place between Edmund Randolph and Patrick Henry.

2. An anonymous letter writer noted that "Mr. Henry was on the floor three hours to-day, making on the whole seven hours upon the same topic" (*Virginia Herald*, 12 June, V below). For another commentary on Henry's speech, see the *New York Journal*, 20 June (V below).

3. On 7 March the Philadelphia *Independent Gazetteer* printed a report that Arthur Lee, on his way through Philadelphia, asserted that "four-fifths of the people of Virginia" opposed the Constitution and were "much alarmed by the present conspiracy against their liberties." This report was reprinted in two Virginia newspapers (RCS:Va., 466-67).

4. In August 1786, the votes in Congress on the issue of the Mississippi River were generally seven to five (Delaware was absent), with the seven Northern States willing to forego free navigation. For the dispute between America and Spain over the navigation of the Mississippi, see CC:46; and for Virginia's interest in the river, see RCS:Va., xxix-xxxi.

5. See Convention Debates, 7 June (RCS:Va., 1020).

6. American minister Thomas Jefferson obtained a number of trade concessions from the French which were incorporated in an arrêt issued on 29 December 1787. Jefferson sent the arrêt to John Jay, the Secretary for Foreign Affairs, who forwarded it to Congress, which on 5 May 1788 ordered it printed (Boyd, X, 474-78, 484-86; XII, 466-71, 479-83; and JCC, XXXIV, 132).

7. Henry refers to a letter that Thomas Jefferson wrote to Alexander Donald on 7 February advocating "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. Jefferson also outlined this procedure for ratification in letters to William Stephens Smith and James Madison on 2 and 6 February, respectively [Boyd, XII, 557-59, 568-70]. Antifederalist Willie Jones referred to Jefferson's letter to Madison in the North Carolina Convention on 31 July.).

It is not known how Henry (and some other Convention delegates) obtained copies of Jefferson's letter, but an extract of it (in Jefferson's handwriting) is in the James Monroe Papers at the Library of Congress. Both Monroe, on 12 July, and Madison, on 24 July, informed Jefferson that Henry had used his letter in the debates (both V below).

For Randolph's comments on Jefferson's letter, which he said he had not seen, see Convention Debates, 10 June (RCS:Va., 1096-97). For Edmund Pendleton's effort to explain the meaning of Jefferson's letter, and Henry's response to Pendleton, see Convention Debates, 12 June (below).

By 27 May, unknown to the members of the Virginia Convention, Jefferson had changed his mind. On that day, he wrote Edward Carrington that "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. but the plan of Massachusetts is far preferable, and will I hope be followed by those who are yet to decide." On 3 June he told William Carmichael that "I am now convinced that the plan of Massachusetts 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, 208, 232-33). For the amendments that the Massachusetts Convention recommended, see CC:508.

8. During the 1780s, a party known as the Patriots' Movement or Loevestein party, which supported a republic for the United Provinces, won control of the province of Holland and several town councils in The Netherlands. When the stadtholder, William

V, left The Hague and moved his family to the province of Gelderland for safety, the Estates of Holland removed him from his post as captain-general of the province's militia. France supported the Patriots, while Great Britain favored the stadtholder's party. In June 1787, the stadtholder's wife, the sister of Frederick William II of Prussia, arranged a crisis by attempting to return to Holland. Her detention at the border was used by Frederick William as an excuse to send his army into The Netherlands. Overwhelmed, the Patriot army capitulated, and William V was restored as stadtholder. Many Patriot leaders went into exile.

9. See Edmund Randolph's speech, *Convention Debates*, 6 June (RCS:Va., 979).

10. Henry refers to the compact made between Maryland and Virginia at the Mount Vernon Conference in 1785. See *Convention Debates*, 6 June, note 8 (above).

11. In 1749, North Carolina and Virginia agreed on a boundary that went 329 miles inland from the Atlantic coast to near the present-day eastern end of the Virginia-Tennessee border. In 1778, the legislatures of both states acted to extend this boundary. The next year, commissioners from both states lengthened the line about forty-five miles, beyond which point they could not agree. In December 1787, the Virginia legislature passed a resolution proposing that North Carolina accept its version of the boundary. In 1789 and 1790, the North Carolina legislature agreed to a report recommending that the Virginia line be confirmed. Informed of North Carolina's action, the Virginia legislature passed an act in 1791 establishing the boundary. (Edmund Randolph had referred to this boundary dispute in his speech of 6 June. See *Convention Debates*, 6 June, RCS:Va., 979).

12. On 26 April, the Maryland Convention ratified the Constitution by a vote of 63 to 11. The Convention then voted 66 to 7 to appoint a committee to consider amendments to the Constitution. The committee initially approved thirteen of the twenty-eight proposed amendments, but it could not agree on a final report. On 28 April the Convention refused to consider any amendments. An account of these events was printed in the Annapolis *Maryland Gazette*, 1 May, and in a three-page broadside (Evans 45288). The broadside was sent to James Madison in late May (Daniel Carroll to Madison, 28 May, Rutland, *Madison*, XI, 63).

13. On 3 November 1787, the House of Delegates, of which Henry was a member, had voted unanimously for George Mason's resolutions condemning paper money. When this legislative session began in October, Henry was considered a supporter of paper money, a position he had held since the previous year.

14. Henry's source for New York's opposition was probably the letter (dated in mid-May) from John Lamb, chairman of the Antifederalist New York Federal Republican Committee, that had arrived in Richmond by special courier on 7 June. The letter predicted that "a decided Majority" of the men elected to the New York Convention was opposed to the Constitution. Henry answered Lamb's letter on 9 June. (See "The Second Attempt at Cooperation between Virginia and New York Antifederalists," 18 May–27 June, III above.) For Henry Lee's response later in the day to Henry's secretiveness about his source, see the *Debates* (RCS:Va., 1078).

15. See *Convention Debates*, 6 June (RCS:Va., 983).

16. These two "glorious triumphs" occurred during the War of the Spanish Succession (1701–14). At the Battle of Blenheim (1704), English and Austrian troops, commanded respectively by the Duke of Marlborough and Prince Eugene of Savoy, defeated a Franco-Bavarian army, that was advancing on Vienna. The French army had not suffered such a major defeat in over fifty years. The Battle of Ramillies (1706) was another smashing victory for the Duke of Marlborough over the French. As a result of this victory, the English and the Dutch gained control over the entire north and east of the Spanish Netherlands.

17. As of 31 March 1788, Virginia ranked fourth among the states in terms of congressional requisitions paid. (See "The State Soldier" V, 2 April, note 3, III above.)

18. See Francis Corbin's speech on 7 June for his metaphorical reference to the "state-vessel" that had "sprung a-leak" (RCS:Va., 1010).

19. Article V of the Articles of Confederation provided that "No state shall be represented in Congress by less than two, nor by more than seven Members" (CDR, 87). In 1784, the Virginia legislature restricted its congressional delegation to five.

20. Henry refers to Congress' insistence that the debate on the Jay-Gardoqui treaty in 1786 be kept secret (CC:46).

21. Henry refers to the Albany Plan of Union which was not adopted by any of the colonies. (See Convention Debates, 7 June, note 11, above.) Massachusetts was the only colony to give its commissioners full powers to create a union. No colonial legislature more seriously considered the plan or tried to find modifications to the plan in order to please all of the parties concerned. However, the legislature rejected the plan.

22. Henry refers to William Pitt the Younger, whose father, William Pitt, the Earl of Chatham, had often defended the American colonies in Parliament. In 1783, during the Fox-North administration, the younger Pitt (a member of the House of Commons), introduced a bill to increase the representation of the underrepresented counties, but the bill was defeated 293 to 149. In 1785, during his own first administration, Pitt proposed to disfranchise thirty-six rotten boroughs and to transfer their seats to the counties; he also wanted to broaden the franchise in the counties. The bill failed 248 to 174 (Watson, *The Reign of George III*, 260, 278).

23. The Volunteer movement in Ireland gained prominence in 1778 and 1779 as a Protestant defense force organized to protect Ireland from an invasion by France, which had entered the Revolutionary War against Great Britain. As the movement strengthened, a sense of unity developed among the Irish people and the Volunteers began to exert themselves politically. The Irish wanted their Parliament alone to legislate for Ireland, and they sought to eliminate British mercantile restrictions on Irish trade so that Ireland could get out of its economic depression. In 1782 the British Parliament established the formal independence of Ireland's Parliament and judicial system. The British action was, in part, the result of a convention with 250 Volunteer delegates that had stirred Irish nationalism and a unanimous resolution of the Irish Parliament indicating that Ireland was ready to assert its independence. Moreover, by this time, the Volunteers had 50,000 men under arms (J. C. Beckett, *The Making of Modern Ireland, 1603-1923* [New York, 1977], 206-26).

24. In 1781 Henry Lee, a lieutenant colonel in the Continental Army, commanded infantry and cavalry under General Nathanael Greene at the Battle of Guilford Courthouse in North Carolina. Unbeknownst to Lee, Greene had apparently given the North Carolina militia permission to withdraw from the battle after firing three volleys. After most of the militia had fired a few shots, they ran in disorder, endangering Lee's Legion by cutting it off from the main army. Lee threatened to use his cavalry against the stampeding militia. The Continental forces eventually retreated after inflicting heavy casualties on the British forces commanded by Lord Cornwallis.

25. The "pensioner" was William Shepard of Westfield, Mass., who had been a colonel in the Continental Army. In January 1787, Shepard, now a militia major general, was in command of the defense of the federal arsenal in Springfield. On 25 January, his artillery easily routed 1,500 insurgents who were advancing against the arsenal. In September 1786 the arsenal held 7,000 muskets with bayonets, 1,300 barrels of powder, and a large amount of shot and shell. In all, the arsenal contained 450 tons of military stores (David P. Szatmary, *Shays' Rebellion: The Making of an Agrarian Insurrection* [Amherst, Mass., 1980], 99-102).

Henry Lee's exaggerated fears about Shays's Rebellion were carried over from his days as a delegate to Congress in 1786. On 17 October 1786 Lee wrote George Washington that "we are all in dire apprehension that a beginning of anarchy with all its calamities has approached, and have no means to stop the dreadful work," and on 25 October he told James Madison that "it is unquestionably true that present appearances

portend extensive national calamity—the contagion will spread and may reach Virginia” (LMCC, VIII, 486, 492).

26. “Laid up with a bilious attack,” James Madison did not attend the Convention on 9 June. He resumed his seat on the 10th, even though he was still “extremely feeble” (Madison to Alexander Hamilton and to Rufus King, both 9 June, and to Tench Coxe, 11 June, all in V below).

27. As a delegate to Congress in 1786, Henry Lee favored giving up the navigation of the Mississippi River, even though the Virginia legislature had instructed its delegates to secure the free navigation of the river for the benefit of the state’s western inhabitants. A heavy investor in western lands, Lee was a stockholder in the Potowmack Company which sought to improve and extend the navigability of the Potomac River so that western produce would be sent eastward to the tidewater and eventual exportation. Such a movement of produce would also benefit Westmoreland County, Lee’s tidewater home, that bordered on the Potomac. Lee, however, did not disclose the fact that he had received a loan of 5,000 pesos from the Spanish *encargado de negocios*, Don Diego de Gardoqui. Despite his willingness to close the Mississippi, Lee voted in August 1786 with the rest of Virginia’s congressional delegates for the free navigation of the Mississippi. In November 1786, Lee was not reelected to Congress, in part, because the legislature had been disturbed by his opposition to free navigation. But in December he was reelected after one of the new delegates declined the appointment (see RCS:Va., xxix–xxx, 206, 207n; Charles Royster, *Light-Horse Harry Lee and the Legacy of the American Revolution*, [New York, 1981], 71–75; and James Madison to Henry Lee, 9 November, and to Thomas Jefferson, 4 December, Rutland, *Madison*, IX, 167–68, 191).

28. The Massachusetts Convention ratified the Constitution with recommendatory amendments on 6 February 1788. A week later, the New Hampshire Convention met and it quickly became apparent that a majority of delegates opposed ratification of the Constitution, either out of principle or because they had been so instructed by their towns. To prevent the rejection of the Constitution, Federalists managed on 22 February to get a vote adjourning the Convention until June. (See CC:554.)

29. For the Rhode Island legislature’s refusal to call a state convention and its call for a statewide referendum in which the voters rejected the Constitution, see “An American,” 21 May, note 13 (III above). For its failure to adopt the Impost of 1781 and its much criticized paper money policies, see Convention Debates, 4 June, note 18, and 6 June, note 19 (both above).

30. See note 14 (above).

31. Henry Lee probably refers to the general abolition of primogeniture and entail by the states after 1776. Virginia was a leader in such reforms, abolishing entail in 1776 and primogeniture in 1785.

32. “A voice and nothing more,” or empty words.

33. See Governor Randolph’s 10 October letter to the Speaker of the Virginia House of Delegates, which was printed by 27 December (RCS:Va., 274).

34. This letter has not been located. For the Henrico County election, see II above.

35. Temple (1628–1699) actually called the government of the city of Amsterdam “a sort of Oligarchy” (Sir George Clark, ed., *Observations upon the United Provinces of the Netherlands* [Oxford, Eng., 1972], 53–54). Temple’s book was first published in 1673 in London (English edition) and in Amsterdam (Dutch edition). The eighth English edition appeared in Edinburgh in 1747.

36. See RCS:Va., 340, note 8.

37. For Randolph’s role in the attainder of Josiah Philips, who was a Princess Anne County laborer, see Convention Debates, 6 June, note 5 (above).

38. See Convention Debates, 7 June (RCS:Va., 1038).



**The Virginia Convention**  
**Tuesday**  
**10 June 1788**

**Debates**

The Convention, according to the order of the day, again resolved itself into a Committee of the whole Convention, to take into farther consideration, the proposed plan of Government.—Mr. *Wythe* in the Chair.

*(The first and second sections still under consideration.)*

Governor *Randolph*.—Mr. Chairman,—I was restrained yesterday by the lateness of the day from making those observations which I intended to make in answer to the Honorable Gentleman [Patrick Henry] who had gone before me.<sup>1</sup> I shall now resume that subject. I hope we shall come at last to a decision. I shall not forever wander from the point, nor transgress the rules of the House; but after making answer to him, shall go on in regular order.

He observed that the only question was with respect to previous and subsequent amendments. Were this the only question, Sir, I am sure this inconsiderable matter would not long retard a decision. I conceive the preservation of the Union to be a question of great magnitude. This must be the peculiar object of my attention, unless I depart from that rule which has regulated my conduct since the introduction of federal measures. Suppose, contrary to my expectation, this Convention should propose certain amendments previous to her ratification; mild and pliant as those States may be, who have received it unani- mously; flexible as those may be, who have adopted it by a majority; I rather argue from human nature that they will not recede from their resolutions to accommodate our caprice. Is there no jealousy existing between the States? They discover no superiority in any one State, of arrogating to itself a right to dictate what ought to be done. They would not see the reasons of such amendments, for some amendments in themselves are really dangerous. The same reasons could not be impressed on all the States. I shall mention one example. I shall suppose, for instance, that we shall propose as an amendment, that the President shall have a Council. I conceive a Council to be injurious to the Executive. The Counsellors will either impede and clog the President, or, if he be a man of dexterity, they will be governed by him. They will also impair his responsibility. Is it probable that all the other States would think alike on the subject, or agree to such an

alteration? As there is a mode in the Constitution itself to procure amendments, not by reference to the people, but by the interposition of the State Legislature—Will the people of Virginia bind themselves not to enter into the Union till amendments shall have been obtained? I refer it to any Gentleman here, whether this may not entirely exclude us from the Union. The Honorable Gentleman [Patrick Henry] then told us, that Maryland held out, and that there can be no danger from our holding out of the Union; that she refused to come into the Confederation until the year 1781, when she was pressed by the then Congress. Is this a proper comparison? The fear of the British army and navy kept the States together. This fear induced that State to come into the Union then, otherwise the Union would have been destroyed. We are also told that Vermont held out. His information is inaccurate. Pardon me for saying that it is not to be found in the history of those times. The right to that territory was long in dispute between New-York and Connecticut. The inhabitants took that opportunity of erecting themselves into a State. They pressed Congress for admission into the Union. Their solicitations were continually opposed till the year 1781, when a kind of assent was given.<sup>2</sup> Can it be said from this, that the people of Vermont held out against the Confederation of twelve States? Were they sufficiently numerous and wealthy to do so? Virginia is said to be able to stand by herself. From her situation she has cause to fear. She has also cause to fear from her inability to raise an army, a navy or money. I contend that she is not able to stand by herself. I am sure that every man who comes from the exposed parts of this country is well convinced of this truth. As these have been enumerated, it would be useless to go over them again. He then told us, that an error in Government never can be removed. I will acknowledge with him, that there are Governments in Europe, whereof the defects have a long time been unaltered, and are not easily changed. We need not go farther than the war to find a willing relinquishment of power. Look at the Confederation, you will there find such a voluntary relinquishment. View the Convention at Annapolis: The object of its delegation involved in its nature some relinquishment of power. It produced this effect—all the States, except Rhode-Island, agreed to call a general Convention, to revise the Confederation and invest Congress with more power. A general Convention has been called—It has proposed a system which concedes considerable powers to Congress. Eight States have already assented to this concession. After this, can we say, that men will not voluntarily relinquish power? Contrast this country with Scotland, blessed with Union. The circumstances of the two countries are not dissimilar. View Scotland—That country is greatly bene-

fited by Union. It would not be now in its present flourishing situation without the auspices of England. This observation brings us to the necessity of Union.

Were we not to look to futurity, have we nothing to fear from the present state of Europe? We are exposed at sea. The Honorable Gentleman tells us, we have no hostility to fear from that quarter.—That our Ambassador at Paris [Thomas Jefferson] would have informed us if there were any combustibles preparing. If he has not done any such thing, it is no conclusive evidence of safety. Nations have passions like men. It is the disposition of nations to attack where there is a demonstrable weakness. Are you weak? Go to history, it will tell you, you will be insulted. One insult will produce another, till at last it produces a partition. So, when they tell us that there is no storm gathering, they ought to support their allegations by some probable evidence. The Honorable Gentleman then told us, that armies do not collect debts. But armies make reprisals. If the debts which we owe, continue on the disgraceful footing they have been on hitherto, without even the payment of interest, we may well expect such reprisals. The seizure of our vessels in foreign ports must be the certain consequences of the continuance of such a disgraceful conduct. He then informed us, that no danger was to be apprehended from Spain—That she trembles for Mexico and Peru. That nation, Sir, is a powerful nation, and has immense resources. What will she be when united with France and other nations who have cause of complaint against us? Mr. Chairman, Maryland seems too to be disregarded. The loss of the Union would not bring her arms upon our heads—Look at the Northern Neck. If the Union is dissolved, will it adhere to Virginia? Will the people of that place sacrifice their safety for us? How are we to retain them? By force of arms? Is this the happy way he proposes for leaving us out of the Union? We are next informed, that there is no danger from the borders of Maryland and Pennsylvania; and that my observations upon the frontiers of England and Scotland, are inapplicable. He distinguishes republican from monarchical borderers—and ascribes pacific meekness to the former, and barbarous ferocity to the latter. There is as much danger, Sir, from republican borderers as from any other. The danger results from the situation of borderers, and not from the nature of the Government under which they may live. History will shew, that as much barbarity and cruelty have been committed upon one another by republican borderers, as by any other. We are borderers upon three States, two of which are ratifying States. I therefore repeat, Sir, that we have danger to apprehend from this quarter. As to the people's complaints of their Government, the Gentleman must

either have misunderstood me, or went over very slightly what I said of the Confederation. He spoke of the Constitution of Virginia, concerning which I said nothing. The Confederation, Sir, on which we are told we ought to trust our safety, is totally void of coercive power and energy. Of this the people of America have been long convinced; and this conviction has been sufficiently manifested to the world. Of this I spoke, and I now repeat, that if we trust to it, we shall be defenceless. The General Government ought to be vested with powers competent to our safety, or else the necessary consequence must be, that we shall be defenceless.

The Honorable Gentleman [Patrick Henry] tells us, that if the project at Albany for the Colonial consolidation, as he terms it, had been completed, it would have destroyed every union and happiness. What has that to do with this paper? It tells us what the present situation of America is. Can any man say, he could draw a better picture of our situation than that paper? He says, that by the completion of that project, the King of Great-Britain might have bound us so tight together, that resistance would have been ineffectual. Does it not tell us, that Union is necessary? Will not our united strength be more competent to our defence, against any assault, than the force of a part? If in their judgment alone, who could decide on it, it was judged sufficient to secure their happiness and prosperity, why say, that that project would have destroyed us? But the Honorable Gentleman again recurs to his beloved requisitions, on which he advises us to trust our happiness. Can any thing be more imprudent, than to put the General Government on so humiliating and disgraceful a footing? What are they but supplications and intreaties to the States to do their duty? Shall we rely on a system of which every man knows the inefficacy? One cannot conceive any thing more contemptible than a Government which is forced to make humble applications to other Governments, for the means of its common support—which is driven to apply for a little money to carry on its administration a few months. After the total incapacity of the Confederation to secure our happiness, has been fully experienced; what will be the consequence, if we reject this Constitution? Shall we recur to separate Confederacies? The Honorable Gentleman acknowledges them to be evils which ought not to be resorted to but on the last necessity—They are evils of the first magnitude. Permit me to extract out of the Confederation of Albany, a fact of the highest authority, because drawn from human nature; which clearly demonstrates the fatal impolicy of separate confederacies.—(Here he made a quotation to that effect.)—If there is a Gentleman here, who harbours in his mind the idea of a separate confederacy, I

beg him to consider the consequence. Where shall we find refuge in the day of calamity? The different confederacies will be rivals in power and commerce, and therefore will soon be implacable enemies of one another. I ask if there be any objection to this system, that will not come with redoubled energy against any other plan? See the defects in this Constitution, and examine if they do not appear with ten-fold force in separate confederacies. After having acknowledged the evil tendency of separate confederacies, he recurs to this, that this country is too extensive for this system. If there be an Executive dependent for its election on the people; a judiciary which will administer the laws with justice, no extent of country can be too great for a republic. Where is there a precedent to prove that this country is too extensive for a Government of this kind? America cannot find a precedent to prove this. Theoretic writers have adopted a position, that extensive territories will not admit of a Republican Government. These positions were laid down before the science of Government was as well understood as it is now. Where would America look for a precedent to warrant her adoption of that position. If you go to Europe before arts and sciences had arrived at their present perfection, no example worthy of imitation can be found. The history of England from the reign of Henry the 7th; of Spain, since that of Charles the 5th; and of France, since that of Francis the 1st, prove, that they have greatly improved in the science of politics since that time. Representation, the source of American liberty, and English liberty, was a thing not understood in its full extent till very lately. The position I have spoken of was founded upon an ignorance of the principles of representation. Its force must be now done away, as this principle is so well understood. If laws are to be made by the people themselves, in their individual capacities, it is evident, that they cannot conveniently assemble together for this purpose, but in a very limited sphere; but if the business of legislation be transacted by Representatives, chosen periodically by the people, it is obvious that it may be done in any extent of country. The experience of this Commonwealth, and of the United States, proves this assertion.

Mr. Chairman—I am astonished that the rule of the House to debate regularly has not been observed by Gentlemen.—Shall we never have order? I must transgress that rule now, not because I think the conduct of Gentlemen deserves imitation, but because the Honorable Gentleman ought to be answered. In that list of facts with which he would touch our affections, he has produced a name, (Mr. Jefferson) which will ever be remembered with gratitude by this Commonwealth. I hope that his life will be continued, to add, by his future actions, to the

brilliance of his character.—Yet, I trust that his name was not mentioned to influence any member of this House. Notwithstanding the celebrity of his character, his name cannot be used as authority against the Constitution. I know not his authority. I have had no letter from him. As far as my information goes, it is only a report circulated through the town, that he wished nine States to adopt, and the others to reject it, in order to get amendments.<sup>3</sup> Which is the ninth State to introduce the Government? That illustrious citizen tells you, that he wishes the Government to be adopted by nine States, to prevent a schism in the Union. This, Sir, is my wish. I will go heart and hand to obtain amendments, but I will never agree to the dissolution of the Union. But unless a ninth State will accede, this must inevitably happen. No doubt he wished Virginia to adopt. I wish not to be bound by any man's opinion; but admitting the authority which the Honorable Gentleman has produced to be conclusive, it militates against himself. Is it right to adopt? He says, no, because there is a President. I wish he was ineligible after a given number of years. I wish also some other changes to be made in the Constitution. But am I therefore obliged to run the risk of losing the Union, by proposing amendments previously, when amendments without that risk can be obtained afterwards? Am I to indulge capricious opinions so far as to lose the Union? The friends of the Union will see how far we carry our attachment to it, and will therefore concur with our amendments. The Honorable Gentleman has told us, that Holland is ruined by a Stadtholder and a Stadtholder's wife. I believe this republic is much indebted to that execrated Stadtholder for her power and wealth. Recur to the history of Holland, and you will find that country never could have resisted Spain had it not been for the Stadtholder. At those periods when they had no Stadtholder their Government was weak and their public affairs deranged. Why has this been mentioned? Was it to bias our minds against the Federal Executive? Are we to have no Executive at all, or are we to have eight or ten? An Executive is as necessary for the security of liberty and happiness as the two other branches of Government. Every State in the Union has an Executive. Let us consider whether the Federal Executive be wisely constructed. This is a point in which the Constitution of every State differs widely as to the mode of electing their Executives, and as to the time of continuing them in office. In some States the Executive is perpetually eligible. In others he is rendered ineligible after a given period. They are generally elected by the Legislature. It cannot be objected to the Federal Executive, that the power is executed by one man. All the enlightened part of mankind agree that the superior dispatch, secrecy, and energy with

which one man can act, renders it more politic to vest the power of executing the laws in one man, than in any number of men. How is the President elected? By the people—on the same day throughout the United States—by those whom the people please. There can be no concert between the electors. The votes are sent sealed to Congress. What are his powers? To see the laws executed. Every Executive in America has that power. He is also to command the army—This power also is enjoyed by the Executives of the different States. He can handle no part of the public money except what is given him by law. At the end of four years he may be turned out of his office. If he misbehaves he may be impeached, and in this case he will never be re-elected. I cannot conceive how his powers can be called formidable. Both Houses are a check upon him. He can do no important act without the concurrence of the Senate. In England the sword and the purse are in different hands.—The King has the power of the sword—And the purse is in the hands of the people alone. Take a comparison between this and the Government of England. It will prove in favour of the American principle. In England the King declares war. In America, Congress must be consulted.—In England, Parliament gives money. In America Congress does it. There are consequently more powers in the hands of the people, and greater checks upon the Executive here, than in England. Let him pardon me, when I say he is mistaken in passing an eulogium on the English Government to the prejudice of this plan. Those checks which he says are to be found in the English Government, are also to be found here. Our Government is founded upon real checks. He ought to shew there are no checks in it. Is this the case? Who are your Representatives? They are chosen by the people for two years. Who are your Senators? They are chosen by the Legislatures, and a third of them go out of the Senate at the end of every second year. They also may be impeached. There are no better checks upon earth. Are there better checks in the Government of Virginia? There is not a check in the one that is not in the other. The difference consists in the length of time, and in the nature of the objects. Any man may be impeached here, so he may there. If the people of Virginia can remove their Delegates for misbehaviour, by electing other men at the end of the year; so in like manner, the Federal Representatives may be removed at the end of two, and the Senators at the end of six years. The Honorable Gentleman has praised the Virginian Government. We can prove that the Federal Constitution is equally excellent. The Legislature of Virginia may conceal their transactions as well as the General Government. There is no clause in the Constitution of Virginia to oblige its Legislature to publish its proceedings at any

period. The clause in this Constitution which provides for a periodical publication, and which the Honorable Gentleman reprobates so much, renders the Federal Constitution superiour to that of Virginia in this respect. The expression, *from time to time*, renders us sufficiently secure—It will compel them to publish their proceedings as often as it can conveniently and safely be done; and must satisfy every mind, without an illiberal perversion of its meaning. His bright ideas are very much obscured, by torturing the explication of words. His interpretation of elections must be founded on a misapprehension. The Constitution says, that “the times, places and manner of holding elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time, by law, make or alter such regulations, except as to the places of choosing Senators.” It says in another place, “that the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature.” Who would have conceived it possible to deduce from these clauses, that the power of election was thrown into the hands of the rich? As the electors of the Federal Representatives are to have the same qualifications with those of the Representatives of this State Legislature; or in other words, as the electors of the one are to be electors of the other; his suggestion is unwarrantable, unless he carries his supposition farther, and says, that Virginia will agree to her own suicide, by modifying elections in such a manner as to throw them into the hands of the rich. The Honorable Gentleman has not given us a fair object to be attacked; he has not given us any thing substantial to be examined. It is also objected, that the trial by jury, the writ of habeas corpus, and the liberty of the press, are insecure. But I contend that the habeas corpus is at least on as secure and good a footing as it is in England. In that country it depends on the will of the Legislature. That privilege is secured here by the Constitution, and is only to be suspended in cases of extreme emergency. Is not this a fair footing? After agreeing that the Government of England secures liberty, how do we distrust this Government? Why distrust ourselves? The liberty of the press is supposed to be in danger. If this were the case, it would produce extreme repugnancy in my mind. If it ever will be suppressed in this country, the liberty of the people will not be far from being sacrificed. Where is the danger of it? He says that every power is given to the General Government, that is not reserved to the States. Pardon me if I say the converse of the proposition is true. I defy any one to prove the contrary. Every power not given it by this system is left with the States. This being the principle, from what part of the Constitution can the liberty of the press



be said to be in danger?—(Here his Excellency read the 8th section of the first article, containing all the powers given to Congress.)—Go through these powers, examine every one, and tell me if the most exalted genius can prove that the liberty of the press is in danger. The trial by jury is supposed to be in danger also.—It is secured in criminal cases—But supposed to be taken away in civil cases. It is not relinquished by the Constitution—It is only not provided for. Look at the interest of Congress to suppress it. Can it be in any manner advantageous for them to suppress it? In equitable cases it ought not to prevail, nor with respect to admiralty causes; because there will be an undue leaning against those characters of whose business Courts of Admiralty will have cognizance. I will rest myself secure under this reflection, that it is impossible for the most suspicious or malignant mind, to shew that it is the interest of Congress to infringe on this trial by jury. Freedom of religion is said to be in danger. I will candidly say, I once thought that it was, and felt great repugnance to the Constitution for that reason. I am willing to acknowledge my apprehensions removed—And I will inform you by what process of reasoning I did remove them. The Constitution provides, that “the Senators and Representatives before mentioned, and the members of the several State Legislatures, and all Executive and Judicial officers, both of the United States and of the several States, shall be bound by oath, or affirmation, to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.” It has been said, that if the exclusion of the religious test were an exception from the general power of Congress, the power over religion would remain. I inform those who are of this opinion, that no power is given expressly to Congress over religion. The Senators and Representatives, members of the State Legislatures, and Executive and Judicial officers, are bound by oath, or affirmation, to support this Constitution. This only binds them to support it in the exercise of the powers constitutionally given it. The exclusion of religious tests is an exception from this general provision, with respect to oaths, or affirmations. Although officers, &c. are to swear that they will support this Constitution, yet they are not bound to support one mode of worship, or to adhere to one particular sect. It puts all sects on the same footing. A man of abilities and character, of any sect whatever, may be admitted to any office or public trust under the United States. I am a friend to a variety of sects, because they keep one another in order. How many different sects are we composed of throughout the United States? How many different sects will be in Congress? We cannot enumerate the sects that may be in Congress.—And there are so many now in the

United States, that they will prevent the establishment of any one sect in prejudice to the rest, and will forever oppose all attempts to infringe religious liberty. If such an attempt be made, will not the alarm be sounded throughout America? If Congress be as wicked as we are foretold they will, they would not run the risk of exciting the resentment of all, or most of the religious sects in America. The Judiciary is drawn up in terror—Here I have an objection of a different nature.—I object to the appellate jurisdiction as the greatest evil in it. But I look at the Union—the object which guides me.—When I look at the Union, objects of less consideration vanish, and I hope that the inconvenience will be redressed, and that Congress will prohibit the appeal with respect to matters of fact. When it respects only matters of law, no danger can possibly arise from it. Can Congress have any interest in continuing appeals of matters of fact? If Pennsylvania has an interest in continuing it, will not Georgia, North-Carolina, South-Carolina, Virginia, New-York, and the Eastern States, have an interest in discontinuing it? What advantage will its continuance be to Maryland, New-Jersey, or Delaware? Is there not an unanimity against it in Congress almost? Kentucky will be equally opposed to it. Thus, Sir, all these will probably be opposed to one State. If Congress wish to aggrandise themselves by oppressing the people, the Judiciary must first be corrupted—No man says any thing against them—They are more independent than in England.

But they say, that the adoption of this system will occasion an augmentation of taxes. To object to it on this ground, is as much as to say—No Union—Stand by yourselves. An increase of taxes is a terror that no friend to the Union ought to be alarmed at. The impost must produce a great sum. The contrary cannot be supposed. I conceive the particular expence of particular States will be diminished, and that diminution will to a certain extent, support the Union. Either disunion, or separate confederacies, will enhance the expence. An Union of all the States will be, even on œconomical principles, more to the interest of the people of Virginia, than either separate confederacies or disunion. Had the States complied with the obligations, imposed upon them by the Confederation, this attempt would never have been made. The unequivocal experience we have had of their inefficacy, renders this change necessary. If Union be necessary for our safety, we ought not to address the avarice of this House. I am confident that not a single member of this Committee would be moved by such unworthy considerations. We are told that the people do not understand this Government. I am persuaded that they do not—not for the want of more time to understand it, but to correct the misrepresentations of

it.—When I meditated an opposition to previous amendments, I marked the number of what appeared to me to be errors, and which I wish to be subsequently removed.<sup>4</sup> But its real errors have been exaggerated—It has not met with a fair decision.—It must be candidly acknowledged, that there are some evils in it which ought to be removed. But I am confident that such gross misrepresentations have been made of it, that if carried before any intelligent men, they would wonder at such glaring attempts to mislead, or at such absolute misapprehension of the subject. Though it be not perfect, any Government is better than the risk which Gentlemen wish us to run.—Another construction he gives, is, that it is exclusively in the power of Congress to arm the militia, and that the States could not do it if Congress thought proper to neglect it. I am astonished how this idea could enter into the Gentleman's mind, whose acuteness no man doubts. How can this be fairly deduced from the following clause?—"To provide for organizing, arming, and disciplining the militia; and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress." He complains much of implication, but in this case he has made use of it himself; for his construction of this clause, cannot possibly be supported without it. It is clear and self-evident that the pretended danger cannot result from this clause. Should Congress neglect to arm or discipline the militia, the States are fully possessed of the power of doing it; for they are restrained from it by no part of the Constitution. The sweeping clause, as it is called, is much dreaded. I find that I differ from several Gentlemen on this point. This formidable clause does not in the least increase the powers of Congress. It is only inserted for greater caution, and to prevent the possibility of encroaching upon the powers of Congress. No sophistry will be permitted to be used to explain away any of those powers—Nor can they possibly assume, any other power, but what is contained in the Constitution, without absolute usurpation. Another security, is, that if they attempt such an usurpation, the influence of the State Governments, will stop it in the bud of hope. I know this Government will be cautiously watched. The smallest assumption of power will be sounded in alarm to the people, and followed by bold and active opposition. I hope that my countrymen will keep guard against every arrogation of power. I shall take notice of what the Honorable Gentleman [Patrick Henry] said, with respect to the power to provide for the general welfare. The meaning of this clause has been perverted, to alarm our apprehensions. The whole clause has not

been read together. It enables Congress "to lay and collect taxes, duties, imposts and excises; to pay the debts and provide for the common defence and general welfare of the United States; but all duties, imposts and excises, shall be uniform throughout the United States." The plain and obvious meaning of this, is, that no more duties, taxes, imposts and excises shall be laid, than are sufficient to pay the debts and provide for the common defence and general welfare of the United States. If you mean to have a General Government at all, ought it not to be empowered to raise money to pay the debts, and advance the prosperity of the United States, in the manner that Congress shall think most eligible? What is the consequence of the contrary? You give it power by one hand, and take it away from it by the other. If it be defective in some parts, yet we ought to give due credit to those parts which are acknowledged to be good. Does not the prohibition of paper money merit our approbation? I approve of it because it prohibits tender laws, secures the widows and orphans, and prevents the States from impairing contracts. I admire that part which forces Virginia to pay her debts. If we recur to the Bill of Rights, which the Honorable Gentleman speaks so much of, we will find that it recommends justice.<sup>5</sup> Had not this power been given, my affection for it would not have been so great. When it obliges us to tread in the paths of virtue—When it takes away from the most influential man, the power of directing our passions to his own emolument, and of trampling upon justice, I hope to be excused when I say, that were it more objectionable than it is, I would vote for the Union.

Mr. *Monro*.—Mr. Chairman,—I cannot avoid expressing the great anxiety which I feel upon the present occasion—an anxiety that proceeds not only from an high sense of the importance of the subject, but from a profound respect for this august and venerable assembly. When we contemplate the fate that has befallen other nations; whether we cast our eyes back into the remotest ages of antiquity, or derive instruction from those examples which modern times have presented to our view; and observe how prone all human institutions have been to decay; how subject the best formed and wisely organized Governments have been to lose their checks and totally dissolve; how difficult it has been for mankind in all ages and countries, to preserve their dearest rights and best privileges, impelled as it were by an irresistible fate into despotism: If we look forward to those prospects that sooner or later await our country, unless we shall be exempted from the fate of other nations; even to a mind, the most sanguine and benevolent, some gloomy apprehensions must necessarily croud upon it. This consideration is sufficient to teach us the limited capacity of the human

mind; how subject the wisest men have been to error. For my own part, Sir, I come forward here not as the partizan of this or that side of the question; [but] to commend where the subject appears to me to deserve commendation; to suggest my doubts where I have any—to hear with candour the explication of others; and in the ultimate result, to act as shall appear for the best advantage of our common country.

The American States exhibit at present a new, and interesting spectacle to the eyes of mankind. Modern Europe, for more than twelve centuries past, has presented to view one of a very different kind. In all the nations of that quarter of the globe, there hath been a constant effort on the part of the people, to extricate themselves from the oppression of their rulers; but with us the object is of a very different nature—to establish the dominion of law over licentiousness—to encrease the powers of the national Government to such extent, and organize it in such manner, as to enable it to discharge its duties and manage the affairs of the States to the best advantage. There are two circumstances remarkable in our Colonial settlement: 1st, the exclusive monopoly of our trade. 2d, that it was settled by the Commons of England only. The revolution, in having emancipated us from the shackles of Great Britain, has put the entire Government in the hands of one order of people only—freemen; not of nobles and freemen. This is a peculiar trait in the character of this revolution. That this sacred deposit may be always retained there, is my most earnest wish and fervent prayer. That Union is the first object for the security of our political happiness, in the hands of gracious Providence, is well understood and universally admitted through all the United States. From New-Hampshire to Georgia, (Rhode-Island excepted) the people have uniformly manifested a strong attachment to the Union.—This attachment has resulted from a persuasion of its utility and necessity. In short, this is a point so well known, that it is needless to trespass on your patience any longer about it. A recurrence has been had to history. Ancient and modern leagues have been mentioned to make impressions. Will they admit of any analogy with our situation? The same principles will produce the same effects. Permit me to take a review of those leagues which the Honorable Gentleman [James Madison] has mentioned,<sup>6</sup> which are 1st, the Amphictionic Council—2d, the Achæan league—3d, the Germanic system—4th, Swiss cantons—5th, the United Netherlands—and 6th, the New-England Confederacy. Before I develop the principles of these leagues, permit me to speak of what must influence the happiness and duration of leagues. These principally depend on the following circumstances: 1st, the happy con-

struction of the Government of the members of the Union—2d, the security from foreign danger. For instance, Monarchies united would separate soon; Aristocracies would preserve their Union longer; but Democracies, unless separated by some extraordinary circumstance, would last forever. The causes of half the wars that have thin[n]ed the ranks of mankind, and depopulated nations, are, caprice, folly, and ambition: These belong to the higher orders of Governments, where the passions of one, or of a few individuals, direct the fate of the rest of the community. But it is otherwise with Democracies, where there is an equality among the citizens—and a foreign and powerful enemy, especially a Monarch, may crush weaker neighbours. Let us see how far these positions are supported by the history of these leagues, and how far they apply to us. The Amphictionic Council consisted of three members, Sparta, Thebes, and Athens. What was the construction of these States? Sparta was a Monarchy more analogous to the Constitution of England, than any I have heard of in modern times. Thebes was a Democracy, but on different principles from modern Democracies. Representation was not known then. This is the acquirement of modern times. Athens like Thebes was generally Democratic, but sometimes changed. In these two States the people transacted their business in person; consequently they could not be of any great extent. There was a perpetual variance between the members of this confederacy, and its ultimate dissolution was attributed to this defect. The weakest were obliged to call for foreign aid. And this precipitated the ruin of this confederacy. The Achæan league had more analogy to ours, and gives me great hopes that the apprehensions of Gentlemen with respect to our Confederacy are groundless. They were all Democratic and firmly united. What was the effect? The most perfect harmony and friendship subsisted between them, and they were very active in guarding their liberties. The history of that confederacy does not present us with those confusions and internal convulsions, which Gentlemen ascribe to all Governments of a confederate kind. The most respectable historians prove this confederacy to have been exempt from those defects.—(Here Mr. *Monro* read several passages in Polybius, tending to elucidate and prove the excellent structure of the Achæan league, and the consequent happy effects of this excellency.)<sup>7</sup> He then continued—This league was founded on Democratical principles, and from the wisdom of its structure continued a far greater length of time than any other. Its members, like our States, by our Confederation, retained their individual sovereignty, and enjoyed a perfect equality. What destroyed it? Not internal dissensions. They were surrounded by great and powerful nations—The Lacedemonians, Macedonians, and Ætoli-

ans. The Ætolians and Lacedæmonians making war on them, they solicited the assistance of Macedon, who no sooner granted it, then she became their oppressor. To free themselves from the tyranny of the Macedonians, they prayed succour from the Romans, who after relieving them from their oppressors, soon totally enslaved them.

The Germanic body is a league of independent principalities. It has no analogy to our system. It is very injudiciously organized. Its members are kept together by the fear of danger from one another, and from foreign powers, and by the influence of the Emperor.

The Swiss cantons have been instanced also, as a proof of the natural imbecility of Federal Governments. Their league has sustained a variety of changes, and notwithstanding the many causes that tend to disunite them, they still stand firm. We have not the same causes of disunion, or internal variance that they have. The individual cantons, composing the league are chiefly Aristocratic. What an opportunity does this offer to foreign powers to disturb them, by bribing and corrupting their Aristocrats? It is well known, that their services have been frequently purchased by foreign nations. Their difference of religion has been a source of divisions and animosity between them, and tended to disunite them. This tendency has been considerably increased by the interference of foreign nations, the contiguity of their position to those nations, rendering such interference easy. They have been kept together by the fear of those nations, and the nature of their association; the leading features of which are a principle of equality between the cantons, and the retention of individual sovereignty. The same reasoning applies nearly to the United Netherlands.—The other Confederacy which has been mentioned, had no kind of analogy to our situation.

From a review of these leagues, we find the causes of the misfortunes of those which have been dissolved, to have been a dissimilarity of structure in the individual members, the facility of foreign interference, and recurrence to foreign aid. After this review of those leagues, if we consider our comparative situation, we shall find that nothing can be adduced from any of them, to warrant a departure from a confederacy to a consolidation, on the principle of inefficacy in the former to secure our happiness. The causes which with other nations rendered leagues ineffectual and inadequate to the security and happiness of the people do not exist here. What is the form of our State Governments? They are all similar in their structure—perfectly Democratic. The freedom of mankind has found an asylum here, which it could find no where else. Freedom of conscience is enjoyed here in the fullest degree. Our States are not disturbed by a contrariety of religious opinions, and other causes of quarrels which other nations have. They

have no causes of internal variance. Causes of war between the States have been represented in all those terrors, which a splendid genius and brilliant imagination can so well depict. But, Sir, I conceive they are imaginary—mere creatures of fancy. I will admit that there was a contrariety of sentiments; a contest of which I was a witness in some respect; a contest respecting the western unsettled lands. Every State having a charter for the lands within its Colonial limits, had its claim to such lands confirmed by the war. The other States contended that those lands belonged not to a part of the States, but to all. That it was highly reasonable and equitable, that all should participate in what had been acquired by the efforts of all. The progress of this dispute gave uneasiness to the true friends of America: But territorial claims may be now said to be adjusted. Have not Virginia, North-Carolina, and other States, ceded their claims to Congress?<sup>8</sup> The disputes between Virginia and Maryland are also settled;<sup>9</sup> nor is there an existing controversy between any of the States at present. Thus, Sir, this great source of public calamity has been terminated without the adoption of this Government. Have we any danger to fear from the European countries? Permit me to consider our relative situation in regard to them, and to answer what has been suggested on the subject. Our situation is relatively the same to all foreign powers. View the distance between us and them—the wide Atlantic—an ocean 3000 miles across, lies between us. If there be any danger to these States, to be apprehended from any of those countries, it must be Great-Britain and Spain, whose colonies are contiguous to our country. Has there been any thing on the part of Great-Britain since the peace, that indicated a hostile intention towards us? Was there a complaint of a violation of treaty? She committed the first breach. Virginia instructed her delegation to demand a reparation for the negroes which had been carried away contrary to treaty.<sup>10</sup> Being in Congress, I know the facts. The other States were willing to get some compensation for their losses as well as Virginia. New-York wished to get possession of the western posts situated within her territory. We wished to establish an amicable correspondence with that country, and to adjust all differences. The United States sent an Ambassador for this purpose. The answer sent was, that a compliance with the treaty on our part must precede it on theirs.<sup>11</sup> These transactions are well known in every State, and need hardly be mentioned. Certain it is, that Great-Britain is desirous of peace, and that it is her true interest to be in friendship with us: It is also so with Spain. Another circumstance which has been dwelt upon, is, the necessity of the protection of commerce. What does our commerce require? Does it want extension and protection? Will treaties



answer these ends? Treaties, Sir, will not extend your commerce. Our object is the regulation of commerce and not treaties. Our treaties with Holland, Prussia, and other powers, are of no consequence. It is not to the advantage of the United States, to make any compact with any nation with respect to trade. Our trade is engrossed by a country with which we have no commercial treaty. That country is Great-Britain. That monopoly is the result of the want of a judicious regulation on our part. It is as valuable and advantageous to them, on its present footing, nay more so, than it could be by any treaty. It is the interest of the United States to invite all nations to trade with them. To open their ports to all, and grant no exclusive privilege to any, in preference to others. I apprehend no treaty that could be made, can be of any advantage to us. If those nations opened any of their ports to us in the East or West-Indies, it would be of advantage to us; but there is no probability of this. France and Holland have been said to be threatening for the payment of the debts due to them. I understood, that Holland has added to her favours to us, by lending us other sums lately.<sup>12</sup> This is a proof that she has no hostile intent against us, and that she is willing to indulge us. France has made no pressing demand. Our country has received from that kingdom, the highest proofs of favours which a magnanimous power can shew. Nor are there any grounds to suspect a diminution of its friendship. Having examined the analogy between the ancient leagues and our confederacy, and shewn that we have no danger to apprehend from Europe; I conclude, that we are in no danger of immediate disunion, but that we may calmly and dispassionately examine the defects of our Government, and apply such remedies as we shall find necessary. I proceed now to the examination of the Confederation, and to take a comparative view of this Constitution. In examining either—a division into two heads is proper, viz: 1st, the form, and 2d, the powers of the Government. I consider the existing system defective in both respects. Is the Confederation a band of Union sufficiently strong to bind the States together? Is it possessed of sufficient power to enable it to manage the affairs of the Union? Is it well organized, safe and proper? I confess that in all these instances, I consider it as defective—I consider it to be void of energy, and badly organized.

What are the powers which the Federal Government ought to have? I will draw the line between the powers necessary to be given to the Federal, and those which ought to be left to the State Governments. To the former I would give controul over the national affairs: To the latter I would leave the care of local interests. Neither the Confederation, nor this Constitution, answers this discrimination. To make

the first a proper Federal Government, I would add to it one great power—I would give it an absolute controul over commerce. To render the system under consideration safe and proper, I would take from it one power only—I mean that of direct taxation. I conceive its other powers are sufficient without this. My objections to this power, are, that I conceive it to be unnecessary, impracticable under a Democracy; and if exercised, as tending to anarchy, or the subversion of liberty, and probably the latter. In the first place it is unnecessary, because exigencies will not require it. The demands and necessities of Government are now greater than they will be hereafter, because of the expences of the war in which we were engaged, which cost us the blood of our best citizens, and which ended so gloriously.

There is no danger of war, as I have already said. Our necessities will therefore in a short time be greatly diminished. What are the resources of the United States? How are requisitions to be complied with? I know the Government ought to be so organized, as to be competent to discharge its engagements, and secure the public happiness. To enable it [to] do these things, I would give it the power of laying an impost, which is amply sufficient with its other means. The impost, at an early period, was calculated at near a million of dollars. If this calculation was well founded—If it was so much at five per centum, what will it not amount to, when the absolute controul of commerce will be in the hands of Congress? May we not suppose, that when the General Government will be able to lay what duties it may think proper, that the amount will be very considerable? There are other resources. The back lands have already been looked upon as a very important resource. When we view the Western extensive territory, and contemplate the fertility of the soil, the noble rivers which pervade it, and the excellent navigation that may be had there; may we not depend on this as a very substantial resource? In the third place, we have the resource of loans. This is a resource which is necessary and proper, and has been recurred to by all nations. The credit of our other resources will enable us to procure, by loans, any sums we may want. We have also in the fourth place, requisitions which are so much despised. These, Sir, have been often productive. As the demands on the States will be but for trivial sums, after Congress shall be possessed of its other great resources, is it to be presumed, that its applications will be despised? If the Government be well administered, or possess any part of the confidence of the people, is it to be presumed, that requisitions for trivial sums will be refused? I conclude, Sir, that they will be readily complied with; and that they, with the imposts, back lands, and loans, will be abundantly sufficient for all the

exigencies of the Union. In the next place, it appears to me, that the exercise of the power of direct taxation, is impracticable in this country under a Democracy.

Consider the territory lying between the Atlantic ocean and the Mississippi. Its extent far exceeds that of the German empire. It is larger than any territory that ever was under any one free Government. It is too extensive to be governed but by a despotic Monarchy. Taxes cannot be laid justly and equally in such a territory. What are the objects of direct taxation? Will the taxes be laid on land? One Gentleman [James Madison] has said, that the United States would select out a particular object, or objects, and leave the rest to the States. Suppose land to be the object selected by Congress; examine its consequences. The land holder alone would suffer by such a selection. A very considerable part of the community would escape. Those who pursue commerce and arts would escape. It could not possibly be estimated equally. Will the taxes be laid on polls only? Would not the land-holder escape in that case? How then will it be laid? On all property? Consider the consequences. Is it possible to make a law that shall operate alike in all the States? Is it possible that there should be sufficient intelligence for the man of Georgia, to know the situation of the men of New-Hampshire? Is there a precise similitude of situation in each State? Compare the situation of the citizens in different States. Are there not a thousand circumstances shewing clearly, that there can be no law, that can be uniform in its operation throughout the United States? Another Gentleman [Edmund Randolph]<sup>13</sup> said, that information would be had from the State laws. Is not this reversing the principles of good policy? Can this substitution of one body to thirteen assemblies, in a matter that requires the most minute and extensive local information, be politic or just? They cannot know what taxes can be least oppressive to the people. The tax that may be convenient in one State, may be oppressive in another. If they vary the objects of taxation in different States, the operation must be unequal and unjust. If Congress should fix the tax on some mischievous objects, what will be the tendency? It is to be presumed, that all Governments will sometime or other exercise their powers, or else, why should they possess them? Enquire into the badness of this Government. What is the extent of the power of laying and collecting direct taxes? Does it not give to the United States all the resources of the individual States? Does it not give an absolute controul over the resources of all the States? If you give the resources of the several States to the General Government, in what situation are the States left? I therefore think the General Government will preponderate. Besides its possession of

all the resources of the country; there are other circumstances, that will enable it to triumph in the conflict with the States. Gentlemen of influence and character, men of distinguished talents, of eminent virtue, and great endowments, will compose the General Government. In what a situation will the different States be, when all the talents and abilities of the country will be against them?

Another circumstance will operate in its favour in case of a contest. The oath that is to be taken to support it, will aid it most powerfully. The influence which the sanction of oaths has on men, is irresistible. The religious authority of divine revelation will be quoted to prove the propriety of adhering to it, and will have great influence in disposing men's minds to maintain it.

It will also be strongly supported by the last clause in the eighth section of the first article, which vests it with the power of making all laws necessary to carry its powers into effect. The correspondent judicial powers will be an additional aid. There is yet another circumstance which will throw the balance in the scale of the General Government. A disposition in its favour, has shewn itself in all parts of the Continent, and will certainly become more and more predominant. Is it not to be presumed, that if a contest between the State Legislatures and the General Government should arise, the latter would preponderate? The Confederation has been deservedly reprobated, for its inadequacy to promote the public welfare. But this change, is, in my opinion, very dangerous. It contemplates objects with which a Federal Government ought never to interfere. The concurrent interfering power, of laying taxes on the people, will occasion a perpetual conflict between the General and individual Governments; which, for the reasons I have already mentioned, must terminate to the disadvantage, if not in the annihilation of the latter. Can it be presumed, that the people of America can patiently bear such a double oppression? Is it not to be presumed, that they will endeavour to get rid of one of the oppressors? I fear, Sir, that it will ultimately end in the establishment of a Monarchical Government. The people, in order to be delivered from one species of tyranny, may submit to another. I am strongly impressed with the necessity of having a firm national Government, but I am decidedly against giving it the power of direct taxation; because I think it endangers our liberties. My attachment to the Union and an energetic Government, is such, that I would consent to give the General Government every power contained in that plan, except that of taxation.

As it will operate on all States and individuals, powers given it generally should be qualified. It may be attributed to the prejudice of my

education, but I am a decided and warm friend to a *Bill of Rights*—the polar star, and great support of American liberty; and I am clearly of opinion, that the general powers conceded by that plan, such as the impost, &c. should be guarded and checked by a Bill of Rights.

Permit me to examine the reasoning, that admits, that all powers not given up are reserved. Apply this. If you give to the United States the power of direct taxation—In making all laws necessary to give it operation (which is a power given by the last clause, in the eighth section, of the first article) suppose they should be of opinion, that the right of the trial by jury, was one of the requisites to carry it into effect; there is no check in this Constitution to prevent the formal abolition of it. There is a general power given to them, to make all laws that will enable them to carry their powers into effect. There are no limits pointed out. They are not restrained or controuled from making any law, however oppressive in its operation, which they may think necessary to carry their powers into effect. By this general unqualified power, they may infringe not only the trial by jury, but the liberty of the press, and every right that is not expressly secured, or excepted, from that general power. I conceive that such general powers are very dangerous. Our great unalienable rights ought to be secured from being destroyed by such unlimited powers, either by a Bill of Rights, or by an express provision in the body of the Constitution. It is immaterial in which of these two modes rights are secured.

I fear I have tired the patience of the Committee; I beg however the indulgence of making a few more observations. There is a distinction between this Government, and ancient and modern ones. The division of power in ancient Governments, or in any Government at present in the world, was founded on different principles from those of this Government. What was the object of the distribution of power in Rome? It will not be controverted, that there was a composition or mixture of Aristocracy, Democracy, and Monarchy, each of which had a repellent quality, which enabled it to preserve itself from being destroyed by the other two—so that the balance was continually maintained. This is the case in the English Government, which has the most similitude to our own. There they have distinct orders in the Government, which possess real efficient repellent qualities. Let us illustrate it. If the Commons prevail, may they not vote the King useless? If the King prevails, will not the Commons lose their liberties? Without the interposition of a check—without a balance, the one would destroy the other. The Lords, the third branch, keep up this balance. The wisdom of the English Constitution has given a share of Legislation to each

of the three branches, which enables it effectually to defend itself, and which preserves the liberty of the people of that country.

What is the object of the division of power in America? Why is the Government divided into different branches? For a more faithful and regular administration. Where is there a check? We have more to apprehend from the Union of these branches, than from the subversion of any; and this Union will destroy the rights of the people. There is nothing to prevent this coalition. But the contest which will probably subsist between the General Government and the individual Governments, will tend to produce it. There is a division of sovereignty between the national and State Governments. How far then will they coalesce together? Is it not to be supposed that there will be a conflict between them? If so, will not the members of the former combine together? Where then will be the check to prevent encroachments on the rights of the people? There is not a third essentially distinct branch to preserve a just equilibrium, or to prevent such encroachments. In developing this plan of Government, we ought to attend to the necessity of having checks. I can see no *real* checks in it.

Let us first enquire into the probability of harmony between the General and individual Governments; and in the next place, into the responsibility of the General Government, either to the people at large, or to the State Legislatures. As to the harmony between the Governments, communion of powers, Legislative and Judicial, forbids it.

I have never yet heard, or read in the history of mankind, of a concurrent exercise of power by two parties, without producing a struggle between them. Consult the human heart. Does it not prove, that where two parties, or bodies, seek the same object, there must be a struggle? Now, Sir, as to the responsibility—Let us begin with the House of Representatives, which is the most Democratic part. The Representatives are elected by the people, but what is the responsibility? At the expiration of the time for which they are elected, the people may discontinue them; but if they commit high crimes, how are they to be punished? I apprehend the General Government cannot punish them, because it would be a subversion of the rights of the people. The State Legislatures cannot punish them, because they have no controul over them in any one instance. In the next place, consider the responsibility of the Senators. To whom are they amenable? I apprehend to none. They are punishable, neither by the General Government, nor by the State Legislatures. The latter may call them to an account, but they have no power to punish them.

Let us now consider the responsibility of the President. He is elected for four years, and not excluded from re-election. Suppose he violates

the laws and Constitution, or commits high crimes, by whom is he to be tried? By his own Council—By those who advise him to commit such violations and crimes? This subverts the principles of justice, as it secures him from punishment. He commands the army of the United States till he is condemned. Will not this be an inducement to foreign nations to use their arts and intrigues to corrupt his Counsellors? If he and his Counsellors can escape punishment with so much facility, what a delightful prospect must it be for a foreign nation, which may be desirous of gaining territorial or commercial advantages over us, to practice on them. The certainty of success would be equal to the impunity. How is he elected? By electors appointed according to the direction of the State Legislatures. Does the plan of Government contemplate any other mode? A combination between the electors might easily happen—which would fix on a man in every respect improper. Contemplate this in all its consequences. Is it not the object of foreign Courts to have such a man possessed of this power, as would be inclined to promote their interests? What an advantageous prospect for France or Great-Britain to secure the favour and attachment of the President, by exerting their power and influence to continue him in the office! Foreign nations may, by their intrigues, have great influence in each State, in the election of the President, and I have no doubt but their efforts will be tried to the utmost. Will not the influence of the President himself have great weight in his re-election? The variety of the offices at his disposal, will acquire him the favour and attachment of those who aspire after them, and of the officers, and their friends. He will have some connection with the members of the different branches of Government. They will esteem him, because they will be acquainted with him—live in the same town with him, and often dine with him. This familiar and frequent intercourse will secure him great influence. I presume that when once he is elected, he may be elected forever. Besides his influence in the town where he will reside, he will have very considerable weight in the different States. Those who are acquainted with the human mind in all its operations, can clearly foresee this. Powerful men in different States will form a friendship with him. For these reasons, I conceive, the same President may always be continued, and be in *fact* elected by Congress, instead of independent and intelligent electors. It is a misfortune, more than once experienced, that the Representatives of the States do not pursue the particular interest of their own State. When we take a more accurate view of the principles of the Senate, we shall have grounds to fear that the interest of our State may be totally neglected—nay, that our Legislative influence will be as little as if we were actually expelled or banished

out of Congress. The Senators are amenable to and appointed by the States. They have a negative on all laws, may originate any, except money bills, and direct the affairs of the Executive.

Seven States are a majority, and can in most cases bind the rest; from which reason, the interest of certain States will alone be consulted. Although the House of Representatives is calculated on national principles, and should they attend contrary to my expectations, to the general interests of the Union, yet the dangerous exclusive powers given to the Senate, will, in my opinion, counter-balance their exertions. Consider the connection of the Senate with the Executive. Has it not an authority over all the acts of the Executive? What are the acts which the President can do without them? What number is requisite to make treaties? A very small number. Two-thirds of those who may *happen* to be present, may, with the President, make treaties that shall sacrifice the dearest interests of the Southern States—which may relinquish part of our territories—which may dismember the United States. There is no check to prevent this—There is no responsibility, or power to punish it. He is to nominate, and by and with the advice and consent of the Senate, to appoint Ambassadors, other public Ministers, and Consuls, Judges of the Supreme Court, and all other officers of the United States. The concurrence of a bare majority of those who may be present, will enable him to do these important acts. It does not require the consent of two-thirds, even of those who may be present. Thus, I conceive the Government is put entirely into the hands of seven States; indeed into the hands of two-thirds of a majority. The Executive branch is under their protection, and yet they are freed from a direct charge of combination.

Upon reviewing this Government, I must say, under my present impression, I think it a dangerous Government, and calculated to secure neither the interests, nor the rights of our countrymen. Under such an one, I shall be averse to embark the best hopes and prospects of a free people. We have struggled long to bring about this revolution, by which we enjoy our present freedom and security. Why then this haste—this wild precipitation?

I have fatigued the Committee,<sup>14</sup> but as I have not yet said all that I wish upon the subject, I trust I shall be indulged another day.

Mr. *John Marshall*.—Mr. Chairman,—I conceive that the object of the discussion now before us, is, whether Democracy, or Despotism, be most eligible. I am sure that those who framed the system submitted to our investigation, and those who now support it, intend the establishment and security of the former. The supporters of the Constitution claim the title of being firm friends of liberty, and the rights of man-



kind. They say, that they consider it as the best means of protecting liberty. We, Sir, idolize Democracy. Those who oppose it have bestowed eulogiums on Monarchy. We prefer this system to any Monarchy, because we are convinced that it has a greater tendency to secure our liberty and promote our happiness. We admire it, because we think it a well regulated Democracy. It is recommended to the good people of this country—They are, through us, to declare whether it be such a plan of Government, as will establish and secure their freedom. Permit me to attend to what the Honorable Gentleman (Mr. *Henry*) has said.<sup>15</sup> He has expatiated on the necessity of a due attention to certain maxims—to certain fundamental principles, from which a free people ought never to depart. I concur with him in the propriety of the observance of such maxims. They are necessary in any Government, but more essential to a Democracy than to any other. What are the favourite maxims of Democracy? A strict observance of justice and public faith, and a steady adherence to virtue. These, Sir, are the principles of a good Government. No mischief—no misfortune ought to deter us from a strict observance of justice and public faith. Would to Heaven that these principles had been observed under the present Government! Had this been the case, the friends of liberty would not be so willing now to part with it. Can we boast that our Government is founded on these maxims? Can we pretend to the enjoyment of political freedom, or security, when we are told, that a man has been, by an act of Assembly, struck out of existence, without a trial by jury—without examination—without being confronted with his accusers and witnesses—without the benefits of the law of the land? Where is our safety, when we are told, that this act was justifiable, because the person was not a Socrates?<sup>16</sup> What has become of the worthy member's maxims? Is this one of them? Shall it be a maxim, that a man shall be deprived of his life without the benefit of law? Shall such a deprivation of life be justified by answering, that the man's life was not taken *secundum artem*,<sup>17</sup> because he was a bad man? Shall it be a maxim, that Government ought not to be empowered to protect virtue?

The Honorable member, after attempting to vindicate that tyrannical Legislative act to which I have been alluding, proceeded to take a view of the dangers to which this country is exposed. He told us, that the principal danger arose, from a Government, which if adopted, would give away the Mississippi. I intended to proceed regularly, by attending to the clause under debate, but I must reply to some observations which were dwelt upon, to make impressions on our minds, unfavourable to the plan upon the table. Have we no navigation in, or do

we derive no benefit from, the Mississippi? How shall we attain it? By retaining that weak Government which has hitherto kept it from us? Is it thus that we shall secure that navigation? Give the Government the power of retaining it, and then we may hope to derive actual advantages from it. Till we do this, we cannot expect that a Government which hitherto has not been able to protect it, will have power to do it hereafter. Have we not attended too long to consider whether this Government would be able to protect us? Shall we wait for further proofs of its inefficacy? If on mature consideration, the Constitution will be found to be perfectly right on the subject of treaties, and containing no danger of losing that navigation, will he still object? Will he object because eight States are unwilling to part with it? This is no good ground of objection. He then stated the necessity and probability of obtaining amendments. This we ought to postpone till we come to that clause, and make up our minds, whether there be any thing unsafe in the system. He conceived it impossible to obtain amendments after adopting it. If he was right, does not his own argument prove, that in his own conception, previous amendments cannot be had; for, Sir, if subsequent amendments cannot be obtained, shall we get amendments before we ratify? The reasons against the latter do not apply against the former. There are in this State, and in every State of the Union, many who are decided enemies of the Union. Reflect on the probable conduct of such men. What will they do? They will bring amendments which are local in their nature, and which they know will not be accepted. What security have we, that other States will not do the same? We are told, that many in the States are violently opposed to it. They are more mindful of local interests. They will never propose such amendments, as they think would be obtained. Disunion will be their object. This will be attained by the proposal of unreasonable amendments. This, Sir, though a strong cause, is not the only one that will militate against previous amendments. Look at the comparative temper of this country now, and when the late Federal Convention met. We had no idea then of any particular system. The formation of the most perfect plan was our object and wish. It was imagined that the States would accede to, and be pleased with the proposition that would be made them. Consider the violence of opinions, the prejudices and animosities which have been since imbibed. Will not these greatly operate against mutual concessions, or a friendly concurrence? This will, however, be taken up more properly at another time. He says, we wish to have a strong, energetic, powerful Government. We contend for a well regulated Democracy. He insinuates, that the power of the Government has been enlarged by the Convention, and that we may

apprehend it will be enlarged by others. The Convention did not in fact assume any power. They have proposed to our consideration a scheme of Government which they thought advisable. We are not bound to adopt it, if we disapprove of it. Had not every individual in this community a right to tender that scheme which he thought most conducive to the welfare of his country? Have not several Gentlemen already demonstrated, that the Convention did not exceed their powers? But the Congress have the power of making bad laws it seems. The Senate, with the President, he informs us, may make a treaty which shall be disadvantageous to us—and that if they be not good men, it will not be a good Constitution. I shall ask the worthy member only, if the people at large, and they only, ought to make laws and treaties? Has any man this in contemplation? You cannot exercise the powers of Government personally yourselves. You must trust agents. If so, will you dispute giving them the power of acting for you, from an existing possibility that they may abuse it? As long as it is impossible for you to transact your business in person, if you repose no confidence in delegates, because there is a possibility of their abusing it, you can have *no* Government; for the power of doing good, is inseparable from that of doing some evil.

We may derive from Holland, lessons very beneficial to ourselves. Happy that country which can avail itself of the misfortunes of others—which can gain knowledge from that source without fatal experience! What has produced the late disturbances in that country? The want of such a Government as is on your table, and having in some measure such a one as you are about to part with. The want of proper powers in the Government—The consequent deranged and relaxed administration—The violence of contending parties, and inviting foreign powers to interpose in their disputes, have subjected them to all the mischiefs which have interrupted their harmony. I cannot express my astonishment at his high-coloured eulogium on such a Government. Can any thing be more dissimilar than the relation between the British Government, and the Colonies, and the relation between Congress and the States. We *were not* represented in Parliament. Here we are represented. Arguments which prove the impropriety of being taxed by Britain, do not hold against the exercise of taxation by Congress. Let me pay attention to the observation of the Gentleman who was last up [James Monroe], that the power of taxation ought not to be given to Congress. This subject requires the undivided attention of this House. This power I think essentially necessary, for without it, there will be no efficiency in the Government. We have had a sufficient demonstration of the vanity of depending on requisitions. How then can the General Government exist without this power? The possibility

of its being abused, is urged as an argument against its expediency. To very little purpose did Virginia discover the defects in the old system—To little purpose indeed did she propose improvements—and to no purpose is this plan constructed for the promotion of our happiness, if we refuse it now, because it is possible that it may be abused. The Confederation has nominal powers, but no means to carry them into effect. If a system of Government were devised by more than human intelligence, it would not be effectual if the means were not adequate to the power. All delegated powers are liable to be abused. Arguments drawn from this source go in direct opposition to every Government, and in recommendation of anarchy. The friends of the Constitution are as tenacious of liberty as its enemies. They wish to give no power that will endanger it. They wish to give the Government powers to secure and protect it. Our enquiry here must be, whether the power of taxation be necessary to perform the objects of the Constitution, and whether it be safe and as well guarded as human wisdom can do it. What are the objects of the national Government? To protect the United States, and to promote the general welfare. Protection in time of war is one of its principal objects. Until mankind shall cease to have ambition and avarice, wars will arise. The prosperity and happiness of the people depend on the performance of these great and important duties of the General Government. Can these duties be performed by one State? Can one State protect us, and promote our happiness? The Honorable Gentleman who has gone before me (Governor *Randolph*) has shewn that Virginia cannot do these things. How then can they be done? By the national Government only. Shall we refuse to give it power to do them? We are answered, that the powers may be abused. That though the Congress may promote our happiness, yet they may prostitute their powers to destroy our liberties. This goes to the destruction of all confidence in agents. Would you believe that men who had merited your highest confidence would deceive you? Would you trust them again after one deception? Why then hesitate to trust the General Government? The object of our inquiry is,—*Is the power necessary—and is it guarded?* There must be men and money to protect us. How are armies to be raised? Must we not have money for that purpose? But the Honorable Gentleman [Patrick Henry] says, that we need not be afraid of war. Look at history, which has been so often quoted. Look at the great volume of human nature. They will foretell you, that a defenceless country cannot be secure. The nature of man forbids us to conclude, that we are in no danger from war. The passions of men stimulate them to avail themselves of the weakness of others. The powers of Europe are jealous of us. It is our interest to watch

their conduct, and guard against them. They must be pleased with our disunion. If we invite them by our weakness to attack us, will they not do it? If we add debility to our present situation, a partition of America may take place. It is then necessary to give the Government that power in time of peace, which the necessities of war will render indispensable, or else we shall be attacked unprepared. The experience of the world, a knowledge of human nature, and our own particular experience, will confirm this truth. When danger will come upon us, may we not do what we were on the point of doing once already, that is, appoint a Dictator?<sup>18</sup> Were those who are now friends of this Constitution, less active in the defence of liberty on that trying occasion, than those who oppose it? When foreign dangers come, may not the fear of immediate destruction by foreign enemies impel us to take a most dangerous step? Where then will be our safety? We may now regulate and frame a plan that will enable us to repel attacks, and render a recurrence to dangerous expedients unnecessary. If we be prepared to defend ourselves, there will be little inducement to attack us. But if we defer giving the necessary power to the General Government, till the moment of danger arrives, we shall give it then, and with an *unspairing hand*. America, like other nations, may be exposed to war. The propriety of giving this power will be proved by the history of the world, and particularly of modern Republics. I defy you to produce a single instance where requisitions on the several individual States composing a confederacy, have been honestly complied with. Did Gentlemen expect to see such punctuality complied with in America? If they did, our own experience shews the contrary. We are told, that the Confederation carried us through the war. Had not the enthusiasm of liberty inspired us with unanimity, that system would never have carried us through it. It would have been much sooner terminated had that Government been possessed of due energy. The inability of Congress, and the failure of the States to comply with the Constitutional requisitions, rendered our resistance less efficient than it might have been. The weakness of that Government caused troops to be against us which ought to be on our side, and prevented all the resources of the community from being called at once into action. The extreme readiness of the people to make their utmost exertions to ward off[f] the pressing danger, supplied the place of requisitions. When they came solely to be depended on, their inutility was fully discovered. A bare sense of duty, or a regard to propriety is too feeble to induce men to comply with obligations. We deceive ourselves if we expect any efficacy from these. If requisitions will not avail, the Government must have the

sinews of war some other way. Requisitions cannot be effectual. They will be productive of delay, and will ultimately be inefficient. By direct taxation, the necessities of the Government will be supplied in a peaceable manner without irritating the minds of the people. But requisitions cannot be rendered efficient without a civil war—without great expence of money, and the blood of our citizens. Are there any other means? Yes, that Congress shall apportion the respective quotas previously, and if not complied with by the States, that then this dreaded power shall be exercised. The operation of this has been described by the Gentleman [George Nicholas] who opened the debate. He cannot be answered. This great objection to that system remains unanswered. Is there no other argument which ought to have weight with us on this subject? Delay is a strong and pointed objection to it. We are told by the Gentleman who spoke last [James Monroe], that direct taxation is unnecessary, because we are not involved in war. This admits the propriety of recurring to direct taxation if we were engaged in war. It has not been proved, that we have no dangers to apprehend on this point. What will be the consequence of the system proposed by the worthy Gentleman? Suppose the States should refuse. The worthy Gentleman who is so pointedly opposed to the Constitution, proposes remonstrances. Is it a time for Congress to remonstrate, or compel a compliance with requisitions, when the whole wisdom of the Union, and the power of Congress are opposed to a foreign enemy? Another alternative is, that if the States shall appropriate certain funds for the use of Congress, that Congress shall not lay direct taxes. Suppose the funds appropriated by the State for the use of Congress, should be inadequate; it will not be determined whether they be insufficient till after the time at which the quota ought to have been paid, and then after so long a delay, the means of procuring money which ought to have been employed in the first instance, must be recurred to. May they not be amused by such ineffectual and temporising alternatives, from year to year, till America shall be enslaved? The failure of one State will authorise a failure in another. The calculation in some States that others will fail, will produce general failures. This will also be attended with all the expences which we are anxious to avoid. What are the advantages to induce us to embrace this system? If they mean that requisitions should be complied with, it will be the same as if Congress had the power of direct taxation. The same amount will be paid by the people.

It is objected, that Congress will not know how to lay taxes so as to be easy and convenient for the people at large. Let us pay strict attention to this objection. If it appears to be totally without foundation, the necessity of levying direct taxes will obviate what Gentlemen

say, nor will there be any colour for refusing to grant the power. The objects of direct taxes are well understood—They are but few—What are they? Lands, slaves, stock of all kinds, and a few other articles of domestic property. Can you believe that ten men selected from all parts of the State, chosen because they know the situation of the people, will be unable to determine so as to make the tax equal on, and convenient for, the people at large? Does any man believe, that they would lay the tax without the aid of other information, besides their own knowledge, when they know that the very object for which they are elected, is to lay the taxes in a judicious and convenient manner? If they wish to retain the affection of the people at large, will they not inform themselves of every circumstance that can throw light on the subject? Have they but one source of information? Besides their own experience—their knowledge of what will suit their constituents, they will have the benefit of the knowledge and experience of the State Legislatures. They will see in what manner the Legislature of Virginia collects its taxes. Will they be unable to follow their example? The Gentlemen who shall be delegated to Congress will have every source of information that the Legislatures of the States can have, and can lay the tax as equally on the people and with as little oppression as they can. If then it be admitted, that they can understand how to lay them equally and conveniently, are we to admit that they will not do it; but that in violation of every principle that ought to govern men, they will lay them so as to oppress us? What benefit will they have by it? Will it be promotive of their re-election? Will it be by wantonly imposing hardships and difficulties on the people at large, that they will promote their own interest, and secure their re-election? To me it appears incontrovertible, that they will settle them in such a manner, as to be easy for the people. Is the system so organized as to make taxation dangerous? I shall not go to the various checks of the Government, but examine whether the immediate representation of the people be well constructed. I conceive its organization to be sufficiently satisfactory to the warmest friend of freedom. No tax can be laid without the consent of the House of Representatives. If there be no impropriety in the mode of electing the Representatives, can any danger be apprehended? They are elected by those, who can elect Representatives in the State Legislature. How can the votes of the electors be influenced? By nothing but the character and conduct of the man they vote for. What object can influence them when about choosing him? They have nothing to direct them in the choice, but their own good. Have you not as pointed and strong a security as you can possibly have? It is a mode that secures an impossibility of being

corrupted. If they are to be chosen for their wisdom, virtue and integrity, what inducement have they to infringe on our freedom? We are told that they may abuse their power. Are there strong motives to prompt them to abuse it? Will not such abuse militate against their own interest? Will not they and their friends feel the effects of iniquitous measures? Does the Representative remain in office for life? Does he transmit his title of Representative to his son? Is he secured from the burthen imposed on the community? To procure their reelection, it will be necessary for them to confer with the people at large, and convince them that the taxes laid are for their good. If I am able to judge on the subject, the power of taxation now before us, is wisely conceded, and the Representatives are wisely elected.

The Honorable Gentleman [Patrick Henry] said, that a Government should ever depend on the affections of the people.<sup>19</sup> It must so. It is the best support it can have. This Government merits the confidence of the people, and I make no doubt will have it. Then he informed us again, of the disposition of Spain with respect to the Mississippi, and the conduct of the Government with regard to it. To the debility of the Confederation alone, may justly be imputed every cause of complaint on this subject. Whenever Gentlemen will bring forward their objections, I trust we can prove, that no danger to the navigation of that river can arise from the adoption of this Constitution. I beg those Gentlemen who may be affected by it, to suspend their judgment till they hear it discussed. Will, says he, the adoption of this Constitution pay our debts? It will compel the States to pay their quotas. Without this, Virginia will be unable to pay.—Unless all the States pay, she cannot. Though the States will not coin money, (as we are told) yet this Government will bring forth and proportion all the strength of the Union. That œconomy and industry are essential to our happiness will be denied by no man. But the present Government will not add to our industry. It takes away the incitements to industry, by rendering property insecure and unprotected. It is the paper on your table that will promote and encourage industry. New-Hampshire and Rhode-Island have rejected it, he tells us. New-Hampshire, if my information be right, will certainly adopt it. The report spread in this country, of which I have heard, is, that the Representatives of that State having, on meeting, found they were instructed to vote against it, returned to their Constituents without determining the question, to convince them of their being mistaken, and of the propriety of adopting it.<sup>20</sup> The extent of the country is urged as another objection, as being too great for a Republican Government. This objection has been handed from author to author, and has been certainly misun-



derstood and misapplied. To what does it owe its source? To observations and criticisms on Governments, where representation did not exist. As to the Legislative power, was it ever supposed inadequate to any extent? Extent of country may render it difficult to execute the laws, but not to Legislate. Extent of country does not extend the power. What will be sufficiently energetic and operative in a small territory, will be feeble when extended over a wide extended country. The Gentleman tells us, there are no checks in this plan. What has become of his enthusiastic eulogium on the American spirit? We should find a check and controul when oppressed, from that source. In this country, there is no exclusive personal stock of interest. The interest of the community is blended and inseparably connected with that of the individual.—When he promotes his own, he promotes that of the community. When we consult the common good, we consult our own. When he desires such checks as these, he will find them abundantly here. They are the best checks. What has become of his eulogium on the Virginian Constitution? Do the checks in this plan appear less excellent than those of the Constitution of Virginia? If the checks in the Constitution be compared to the checks in the Virginian Constitution, he will find the best security in the former.

The temple of liberty was complete, said he, when the people of England said to their King, that he was their servant. What are we to learn from this? Shall we embrace such a system as that? Is not liberty secure with us, where the people hold all powers in their own hands, and delegate them cautiously, for short periods, to their servants, who are accountable for the smallest mal-administration? Where is the nation that can boast greater security than we do? We want only a system like the paper before you, to strengthen and perpetuate this security.

The Honorable Gentleman [Patrick Henry] has asked, if there be any safety or freedom, when we give away the sword and the purse? Shall the people at large hold the sword and the purse without the interposition of their Representatives? Can the whole aggregate community act personally? I apprehend that every Gentleman will see the impossibility of this. Must they then not trust them to others? To whom are they to trust them but to their Representatives who are accountable for their conduct? He represents secrecy as unnecessary, and produces the British Government as a proof of its inutility. Is there no secrecy there? When deliberating on the propriety of declaring war, or on military arrangements, do they deliberate in the open fields? No, Sir. The British Government affords secrecy when necessary, and so ought every Government. In this plan, secrecy is only used when it would be fatal and pernicious to publish the schemes of Government. We are

threatened with the loss of our liberties by the possible abuse of power, notwithstanding the maxim, that those who give may take away. It is the people that give power, and can take it back. What shall restrain them? They are the masters who give it, and of whom their servants hold it.

He then argues against this system, because it does not resemble the British Government in this, that the same power that declares war has not the means of carrying it on. Are the people of England more secure, if the Commons have no voice in declaring war, or are we less secure by having the Senate joined with the President? It is an absurdity, says the worthy member, that the same man should obey two masters—that the same collector should gather taxes for the General Government and the State Legislature. Are they not both the servants of the people? Are not Congress and the State Legislatures the agents of the people, and are they not to consult the good of the people? May not this be effected by giving the same officer the collection of both taxes? He tells you, that it is an absurdity to adopt before you amend. Is the object of your adoption to amend solely? The objects of your adoption are Union, and safety against foreign enemies—Protection against faction—against what has been the destruction of all Republics. These impel you to its adoption. If you adopt it, what shall restrain you from amending it, if in trying it, amendments shall be found necessary? The Government is not supported by force, but depending on our free will. When experience shall shew us any inconveniences, we can then correct it. But until we have experience on the subject, amendments, as well as the Constitution itself, are to try. Let us try it, and keep our hands free to change it when necessary. If it be necessary to change Government, let us change that Government which has been found to be defective. The difficulty we find in amending the Confederation, will not be found in amending this Constitution. Any amendments in the system before you, will not go to a radical change—a plain way is pointed out for the purpose. All will be interested to change it, and therefore all will exert themselves in getting the change. There is such a diversity of sentiments in human minds, that it is impossible we shall ever concur in one system, till we try it. The power given to the General Government over the time, place, and manner of election, is also strongly objected to. When we come to that clause, we can prove that it is highly necessary, and not dangerous.

The worthy member has concluded his observations by many eulogiums on the British Constitution. It matters not to us whether it be a wise one or not. I think, that for America at least, the Government on your table is very much superior to it. I ask you, if your House of

Representatives would be better than it is, if a hundredth part of the people were to elect a majority of them? If your Senators were for life, would they be more agreeable to you? If your President were not accountable to you for his conduct; if it were a constitutional maxim, that he could do no wrong, would you be safer than you are now? If you can answer *yes* to these questions, then adopt the British Constitution. If not, then good as that Government may be, this is better. The worthy Gentleman who was last up [James Monroe], told us, that the Confederacies of ancient and modern times were not similar to ours, and that consequently reasons which applied against them, could not be urged against it. Do they not hold out one lesson very useful to us? However unlike in other respects, they resemble it in its total inefficacy. They warn us to shun their calamities, and place in our General Government, those necessary powers, the want of which destroyed them. I hope we shall avail ourselves of their misfortunes, without experiencing them. There was something peculiar in one observation he made. He said, that those who governed the cantons of Switzerland were purchased by foreign powers, which was the cause of their uneasiness and trouble. How does this apply to us? If we adopt such a Government as theirs, will it not be subject to the same inconvenience? Will not the same cause produce the same effect? What shall protect us from it? What is our security? He then proceeded to say, that the causes of war are removed from us—that we are separated by the sea from the powers of Europe, and need not be alarmed. Sir, the sea makes them neighbours to us. Though an immense ocean divides us, we may speedily see them with us. What dangers may we not apprehend to our commerce? Does not our naval weakness invite an attack on our commerce? May not the Algerines seize our vessels? Cannot they, and every other predatory or maritime nation, pillage our ships and destroy our commerce, without subjecting themselves to any inconvenience? He would, he said, give the General Government all necessary powers. If any thing be necessary, it must be so, to call forth the strength of the Union, when we may be attacked, or when the general purposes of America require it. The worthy Gentleman then proceeded to shew, that our present exigencies are greater than they will ever be again. Who can penetrate into futurity? How can any man pretend to say, that our future exigencies will be less than our present? The exigencies of nations have been generally commensurate to their resources. It would be the utmost impolicy to trust to a mere possibility of not being attacked, or obliged to exert the strength of the community. He then spoke of a selection of particular objects by Congress, which he says must necessarily be oppressive. That Congress

for instance, might select lands for direct taxes, and that all but landholders would escape. Cannot Congress regulate the taxes so as to be equal on all parts of the community? Where is the absurdity of having thirteen revenues? Will they clash with, or injure, each other? If not, why cannot Congress make thirteen distinct laws, and impose the taxes on the general objects of taxation in each State, so as that all persons of the society shall pay equally as they ought?

He then told you, that your Continental Government will call forth the virtue and talents of America. This being the case, will they encroach on the powers of the State Governments? Will our most virtuous and able citizens wantonly attempt to destroy the liberty of the people? Will the most virtuous act the most wickedly? I differ in opinion from the worthy Gentleman. I think the virtue and talents of the members of the General Government will tend to the security, instead of the destruction of our liberty. I think that the power of direct taxation is essential to the existence of the General Government, and that it is safe to grant it. If this power be not necessary, and as safe from abuse as any delegated power can possibly be, then I say, that the plan before you is unnecessary; for it imports not what system we have, unless it have the power of protecting us in time of peace and war.

Mr. *Harrison* then addressed the Chair, but spoke so low that he could not be distinctly heard. He observed, that the accusation of the General Assembly with respect to Josiah Phillips, was very unjust. That he was a man, who, by the law of nations, was entitled to no privilege of trial, &c. That the Assembly had uniformly been lenient and moderate in their measures, and that as the debates of this Convention would probably be published, he thought it very unwarrantable to utter expressions here which might induce the world to believe, that the Assembly of Virginia had committed murder. He added some observations on the plan of Government—That it certainly would operate an infringement of the rights and liberties of the people—That he was amazed that Gentlemen should attempt to misrepresent facts, to persuade the Convention to adopt such a system; and that he trusted they would not ratify it as it then stood.

Mr. *George Nicholas*, in reply to Mr. *Harrison*, observed, that the turpitude of a man's character was not a sufficient reason to deprive him of his life without a trial. That such a doctrine as that, was a subversion of every shadow of freedom. That a fair trial was necessary to determine whether accusations against men's characters were well founded or not; and that no person would be safe, were it once adopted as a maxim, that a man might be condemned without a trial.—Mr. *Nicholas* then proceeded—Although we have sat eight days, so little

has been done, that we have hardly begun to discuss the question regularly. The rule of the House, to proceed clause by clause, has been violated. Instead of doing this, Gentlemen alarm us by declamation, without reason or argument—By bold assertions, that we are going to sacrifice our liberties. It is a fact, known to many members within my hearing, that several members have tried their interest without doors, to induce others to oppose this system. Every local interest that could affect their minds, has been operated upon. Can it be supposed, that Gentlemen elected for their ability and integrity, to represent the people of Virginia in this Convention, to determine on this important question, whether or not we shall be connected with the other States in the Union—Can it be thought, I say, that Gentlemen in a situation like this, will be influenced by motives like these? An answer which has been given, is, that if this Constitution be adopted, the Western counties will be lost. It is better that a few counties should be lost, than all America. But, Sir, no such consequence can follow from its adoption. They will be much more secure than they are at present. This Constitution, Sir, will secure the equal liberty and happiness of all. It will do immortal honor to the Gentlemen who formed it. I shall shew the inconsistency of the Gentleman who entertained us so long, (Mr. *Henry*). He insisted that subsequent amendments would go to a dissolution of the Union—That Massachusetts was opposed to it in its present State. Massachusetts has absolutely ratified it; and has gone further, and said, that such and such amendments shall be proposed by their Representatives.<sup>21</sup> But such was the attachment of that respectable State to the Union, that even at that early period, she ratified it unconditionally, and depended on the probability of obtaining amendments afterwards. Can this be a dissolution of the Union? Does this indicate an aversion to the Union on the part of that State; or, can an imitation of her conduct injure us? He tells us, that our present Government is strong. How can that Government be strong, which depends on humble supplications for its support? Does a Government which is dependent for its existence on others, and which is unable to afford protection to the people, deserve to be continued? But the Honorable Gentleman has no objections to see little storms in Republics—They may be useful in the political, as well as in the natural world. Every thing the great Creator has ordained in the natural world, is founded on consummate wisdom; but let him tell us what advantages, convulsions, dissensions, and bloodshed, will produce in the political world? Can disunion be the means of securing the happiness of the people in this political hemisphere? The worthy member has enlarged on our Bill of Rights. Let us see whether his encomiums on the Bill

of Rights be consistent with his other arguments. Our Declaration of Rights<sup>22</sup> says, that all men are by nature equally free and independent. How comes the Gentleman to reconcile himself to a Government wherein there are a hereditary Monarch and nobility? He objects to this change although our present federal system is totally without energy—He objects to this system, because he says, it will lay prostrate your Bill of Rights. Does not the Bill of Rights tell you, that a majority of the community have an indubitable right to alter any Government, which shall be found inadequate to the security of the public happiness? Does it not say, “that no free Government, or the blessings of liberty can be preserved to any people, but by a firm adherence to justice, moderation, temperance, frugality, and virtue, and by frequent recurrence to fundamental principles”? Have not the inadequacy of the present system, and repeated flagrant violations of justice, and the other principles recommended by the Bill of Rights, been amply proved? As this plan of Government will promote our happiness and establish justice, will not its adoption be justified by the very principles of your Bill of Rights?

But he has touched on a string which will have great effect. The Western country is not safe if this plan be adopted. What do they stand in need of? Do they want protection from enemies? The present weak Government cannot protect them. But the exercise of the Congressional powers, proposed by this Constitution, will afford them ample security, because the General Government can command the whole strength of the Union, to protect any particular part. There is another point wherein this Government will set them right. I mean the Western posts. This is a subject with which every Gentleman here is acquainted.—They have been withheld from us since the peace by the British. The violation of the treaty on our part, authorises this detention in some degree. The answer of the British Minister to our demand of surrendering the posts, was, that as soon as America should shew a disposition to comply with the treaty on her part, that Great-Britain should do the same.<sup>23</sup> By this Constitution treaties will be the supreme law of the land. The adoption of it therefore is the only chance we have of getting the Western posts. As to the navigation of the Mississippi, it is one of the most unalienable rights of the people, and which ought to be relinquished on no consideration. The strength of the Western people is not adequate to its retention and enjoyment. They can receive no aid from the Confederation. This navigation can only be secured by one of two ways. By force or by treaty. As to force, I apprehend that the new Government will be much more likely to hold it than the old. It will be also more likely to retain it by means

of treaties. Because, as it will be more powerful and respectable, it will be more feared; and as they will have more power to injure Spain, Spain will be more inclined to do them justice, by yielding it, or by giving them an adequate compensation. It was said, that France and Spain would not be pleased to see the United States united in one great empire. Shall we remain feeble and contemptible to please them? Shall we reject our own interest to promote theirs? We shall be more able to discharge our engagements. This may be agreeable to them. There are many strong reasons to expect that the adoption of this system will be beneficial to the back country, and that their interest will [be] much better attended to under the new than under the old Government. There are checks in this Constitution which will render the navigation of the Mississippi safer than it was under the Confederation. There is a clause, which, in my opinion, will prohibit the General Government from relinquishing that navigation. The fifth [sixth] clause, of the ninth section, of the first article, provides, "That no preference shall be given by any regulation of commerce, or revenue, to the ports of one State, over those of another." If Congress be expressly prohibited to give preference to the ports of one State over those of another; there is a strong implication, that they cannot give preference to the ports of any foreign nation, over those of a State. This will render it unconstitutional to give Spain a preference to the Western country in the navigation of that river. They may say that this is a constrained construction, but it appears to me rational. It would be a violation of true policy to give such a preference. It would be a departure from natural construction to suppose, that an advantage withheld from the States, should be given to a foreign nation. Under the Confederation, Congress cannot make a treaty without the consent of nine States. Congress, by the proposed plan, cannot make a treaty without the consent of two-thirds of the Senators present, and of the President. Two-thirds will amount to nine States, if the Senators from all the States be present. Can it be candidly and fairly supposed, that they will not all, or nearly all, be present when so important a subject as a treaty is to be agitated? The consent of the President is a very great security. He is elected by the people at large. He will not have the local interests which the members of Congress may have. If he deviates from his duty he is responsible to his constituents. He will be degraded, and will bring on his head the accusation of the Representatives of the people—an accusation which has *ever been*, and always *will be*, very formidable. He will be absolutely disqualified to hold any place of profit, honor, or trust, and liable to further punishment, if he has committed such high crimes, as are

punishable at common law. From the summit of honor and esteem, he will be precipitated (~~and degraded~~) to the lowest infamy and disgrace. Although the Representatives have no immediate agency in treaties, yet from their influence in the Government, they will direct every thing. They will be a considerable check on the Senate and President. Those from small States will be particularly attentive, to prevent a sacrifice of territory.

The people of New-England have lately purchased great quantities of lands in the Western country.<sup>24</sup> Great numbers of them have moved thither. Every one has left his friends, relations, and acquaintance, behind him. This will prevent those States from adopting a measure, that would so greatly tend to the injury of their friends. Has not Virginia, in the most explicit terms, asserted her right to that navigation?<sup>25</sup> Can she ever enjoy it under so feeble a Government as the present? This is one reason why she should assent to ratify this system. A strong argument offered by the Gentleman last up, against the concession of direct taxation, is, that the back lands and impost will be sufficient for all the exigencies of Government, and calculates the impost at a considerable amount. The impost will be affected by this business. The navigation of that river will increase the impost. Are not the United States as much interested as the people of Kentucky, to retain that navigation? Congress will have as much interest in it, as any inhabitant of that country, and must exert themselves for it. Kentucky will have taxes to pay. How can they pay them without navigation? It will be to their interest to have it in their power to navigate the Mississippi, and raise money by imposts. It will be to the interest of all the States, as it will increase the general resources of the united community. Considering Kentucky as an independent State, she will, under the present system, and without the navigation of that river, be furnished with the articles of her consumption, through the medium of the importing States. She will therefore be taxed by every importing State. If the new Constitution takes place, the amounts of all duties on imported articles, will go into the general treasury, by which means Kentucky will participate an equal advantage with the importing States. It will then be clearly to the advantage of the inhabitants of that country that it should take place. He tells us, that he prays for Union. What kind of Union? An Union of the whole, I suppose, if it could be got on his terms. If on such terms, he will adopt it. If not, he will recur to partial Confederacies. He will attempt amendments. If he cannot obtain them—Then he will choose a partial Confederacy! Now I beg every Gentleman in this Committee, who would not sacrifice the Union, to attend to the situation in which they are about to place



themselves. I beg Gentlemen seriously to reflect on this most important business. They say amendments may be previously obtained, but acknowledged to be difficult. Will you join in an opposition that so directly tends to disunion? Can any member here think of disunion, or a partial Confederacy, without horror? Yet both are expressly preferred to Union, unless this system be amended previously. But, says the worthy member, why should not previous amendments be obtained? Will they not be agreed to, as the eight adopting States are friends to the Union? But what follows? If they are so, they will agree to subsequent amendments. If you recommend alterations after ratifying, the friendship of the adopting States to the Union, and the desires of several of them to have amendments, will lead them to gratify every reasonable proposal. By this means you secure the Government and Union. But if you reject the Constitution and say, that you must have alterations as the previous condition of adoption, you sacrifice the Union, and all the valuable parts of it.

Can we trust, says he, our liberty to the President—to the Senate—to the House [of] Representatives? We do not trust our liberty to a particular branch: One branch has not the whole power. One branch is a check on the other. The Representatives have a controuling power over the whole. He then told us, that Republican borderers are not disposed to quarrels. This controverts the uniform evidence of history. I refer the Gentleman to the history of Greece. Were not the Republics of that country, which bordered on one another, almost perpetually at war? Their Confederated Republics, as long as they were united, were continually torn by domestic factions. This was the case with the Amphycyons. They called to their assistance the Macedonian Monarch, and were subjected themselves by that very Prince. This was the fate of the other Grecian Republics. Dissentions among themselves rendered it necessary for them to call for foreign aid, and this expedient ultimately ended in their own subjugation. This proves the absolute necessity of the Union.

There is a country which affords strong examples, which may be of great utility to us. I mean Great-Britain. England, before it was united to Scotland, was almost constantly at war with that part of the island. The inhabitants of the north and south parts of the same island were more bitter enemies to one another, than to the nations on the Continent. England and Scotland were more bitter enemies before the Union, than England and France have ever been, before or since. Their hatred and animosities were stimulated by the interference of other nations. Since the Union, both countries have enjoyed domestic tranquillity the greatest part of the time, and both countries have been

greatly benefited by it. This is a convincing proof that Union is necessary for America, and that partial Confederacies would be productive of endless dissensions and unceasing hostilities between the different parties.

The Gentleman [Patrick Henry] relies much on the force of requisitions. I shall mention two examples which will shew their inutility. They are fruitless without the coercion of arms. If large States refuse, a complete civil war, or, dissolution of the Confederacy will result. If small States refuse, they will be destroyed, or obliged to comply. From the history of the United Netherlands, the inutility of requisitions, without recurring to force, may be proved. The small Provinces refused to comply. Holland, the most powerful, marched into their territories with an army, and compelled them to pay. The other example, is from the New-England Confederacy.<sup>26</sup> Massachusetts, the most wealthy and populous State, refused to contribute her share. The rest were unable to compel her, and the league was dissolved. Attend to a resolution of the Assembly of Virginia in the year 1784. (Here Mr. *Nicholas* read a resolution of the Assembly of that year, to enable Congress to compel a compliance with requisitions.)<sup>27</sup>—I am sure that the Gentleman recognizes his child. Is not this a conclusive evidence of the utter inefficiency of requisitions? This expedient of coercion is a dreadful alternative. It confounds those who are innocent, and willing to pay, with those who refuse. How are they to be discriminated, if a State is to be attacked for the refusal of its Legislature? I am sure there is not a man in the Committee who does not see the impolicy and danger of such an expedient. We are next terrified with the thoughts of excises. In some countries excises are terrible. In others they are not only harmless, but useful. In our sister States they are exercised without any inconvenience. They are a kind of tax on manufactures. Our manufactures are few in proportion to those of other States. We may be assured, that Congress shall make such regulations as will make excises convenient and easy for the people.

Another argument made use of, is, that ours is the largest State, and must pay in proportion to the other States. How does that appear? The proportion of taxes are fixed by the number of inhabitants, and not regulated by the extent of territory, or fertility of soil. If we be wealthier in proportion, than the other States, it will fall lighter upon us than upon poorer States. They must fix the taxes so that the poorest State can pay, and Virginia being richer will bear it easier.

The Honorable Gentleman says, that the first collections are to go to Congress, and that the State Legislatures must bear all deficiencies. How does this appear? Does he prove it? Nothing of it appears in the

plan itself. The Congress and the State Legislatures have concurrent jurisdiction in laying and collecting taxes. There is no rule that shews that Congress shall have the first collections. Each is independent of the other. Another argument against this disingenious construction is drawn from that clause which regulates representation, which is conclusive from the words themselves. "Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers." Each State will know from its population, its proportion of any general tax. As it was justly observed by the Gentleman over the way, (Governor *Randolph*) they cannot possibly exceed that proportion; they are limited and restrained expressly to it. The State Legislatures have no check of this kind. Their power is uncontroled. This excludes the danger of interference. Each collects its own taxes, and bears its own deficiencies: And officers are accountable to each Government for the different collections. I deny on my part, what he says with respect to the general welfare. He tells you, that under pretence of providing for the general welfare, they may lay the most enormous taxes. There is nothing in the clause which warrants this suggestion. It provides, "That Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defence and general welfare of the United States." The debts of the Union ought to be paid. Ought not the common defence to be provided for? Is it not necessary to provide for the general welfare? It has been fully proved, that this power could not be given to another body. The amounts to be raised, are confined to these purposes solely. Will oppressive burthens be warranted by this clause? They are not to raise money for any other purpose. It is a power which is drawn from his favourite Confederation, the eighth article of which provides, "That all charges of war, and all other expences that shall be incurred for the *common defence or general welfare*, and allowed by the United States in Congress assembled, shall be defrayed out of a common treasury, which shall be supplied by the several States, in proportion to the value of all lands within each State, granted to, or surveyed for any person, as such land, and the building and improvement thereon shall be estimated, according to such mode as the United States in Congress assembled, shall, from time to time direct and appoint. The taxes for paying that proportion shall be laid and levied by the authority and direction of the Legislatures of the several States within the time agreed upon by the United States in Congress assembled."<sup>28</sup> Now, Sir, by a comparison of this article, with the clause in the Constitution, we shall find them to be nearly the same. The common defence and gen-

eral welfare are the objects expressly mentioned to be provided for, in both systems. The power in the Confederation to secure and provide these objects was constitutionally unlimited. The requisitions of Congress are binding on the States, though from the imbecility of their nature they cannot be enforced. The same power is intended by the Constitution. The only difference between them is, that Congress is by this plan to impose the taxes on the people, whereas by the Confederation they are laid by the States. The amount to be raised, and the power given to raise it, is the same in principle. The mode of raising is only different; and this difference is founded on the necessity of giving the Government that energy, without which, it cannot exist. The power has not been reprobated in the Confederation. It ought not to be blamed in the proposed plan of Government.

The Gentleman [Patrick Henry] has adverted to what he calls the sweeping clause, &c. and represents it, as replete with great dangers. This dreaded clause runs in the following words: "To make all laws which shall be necessary and proper for carrying into execution the foregoing powers; and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof." The Committee will perceive, that the Constitution had enumerated all the powers which the General Government should have; but did not say how they were to be exercised. It therefore in this clause tells *how* they shall be exercised. Does this give any new power? I say not. Suppose it had been inserted at the end of every power, that they should have power to make laws to carry that power into execution: Would this have increased their powers? If therefore it could not have increased their powers, if placed at the end of each power, it cannot increase them at the end of all. This clause only enables them to carry into execution the powers given to them, but gives them no additional power.

But it is objected to for want of a Bill of Rights. It is a principle universally agreed upon, that all powers not given, are retained. Where by the Constitution, the General Government has general powers, for any purpose, its powers are absolute. Where it has powers with some exceptions, they are absolute, only as to those exceptions. In either case, the people retain what is not conferred on the General Government, as it is by their positive grant that it has any of its powers. In England, in all disputes between the King and people, recurrence is had to the enumerated rights of the people to determine. Are the rights in dispute secured—Are they included in Magna Charta, Bill of Rights, &c.? If not, they are, generally speaking, within the King's prerogative. In disputes between Congress and the people, the reverse

of the proposition holds. Is the disputed right enumerated? If not, Congress cannot meddle with it. Which is the most safe? The people of America know what they have relinquished, for certain purposes. They also know that they retain every thing else, and have a right to resume what they have given up, if it be perverted from its intended object. The King's prerogative is general, with certain exceptions. The people are therefore less secure than we are. Magna Charta, Bill of Rights, &c. secure their liberty. Our Constitution itself contains an English Bill of Rights. The English Bill of Rights declares, that Parliaments shall be held frequently. Our Constitution says, that Congress shall sit annually. The English Declaration of Rights provides, that no laws shall be suspended. The Constitution provides, that no law shall be suspended, except one, and that in times of rebellion, or invasion, which is the writ of *habeas corpus*. The Declaration of Rights says, that there should be no army in time of peace *without the consent of Parliament*. Here we cannot have an army even in time of war, *with the approbation of our Representatives*, for more than two years.

The liberty of the press is secured. What secures it in England? Is it secured by Magna Charta, the Declaration of Rights, or by any other express provision? It is not. They have no express security for the liberty of the press. They have a reliance on Parliament for its protection and security. In the time of King William, there passed an act for licensing the press. That was repealed.<sup>29</sup> Since that time it has been looked upon as safe. The people have depended on their Representatives. They will not consent to pass an act to infringe it, because such an act would irritate the nation. It is equally secure with us. As to the trial by jury, consider in what situation it is by the State Constitution. It is not on a better footing. It is by implication under the controul of the Legislature; because it has left particular cases to be decided by the Legislature. Here it is secured in criminal cases, and left to the Legislature in civil cases. One instance will prove the evil tendency of fixing it in the Constitution. It would extend to all cases. Causes in Chancery, which, strictly speaking, never are, nor can be well tried by a jury, would then be tried by that mode, and could not be altered though found to be inconvenient.

But taxes are to be increased we are told. I think they will not. I am clearly of opinion, that the deduction in the civil list of the States, will be equal to the increase of that of the General Government. Then the increase of custom-house officers is dreaded. The present custom-house officers will be sufficient in the hands of Congress. So that as much as oeconomy will take place, so far the revenues will be increased. Mr. *Nicholas* concluded, by making a few observations on the general

structure of the Government, and its probable happy operation. He said that it was a Government calculated to suit almost any extent of territory. He then quoted the opinion of the celebrated Montesquieu, from Vol. 1st. book ix. where that writer speaks of a Confederate Republic as the only safe means of extending the sphere of a Republican Government to any considerable degree.<sup>30</sup>

The Committee then rose—And on motion, *Resolved*, That this Convention will, to-morrow, again resolve itself into a Committee of the whole Convention, to take into farther consideration, the proposed Constitution of Government.

And then the Convention adjourned until to-morrow morning, ten o'clock.

1. Randolph answers the speech that Patrick Henry began on Saturday, 7 June, and completed on Monday, 9 June (both above).

2. The territory of Vermont (also called the New Hampshire Grants) was disputed by New York, New Hampshire, and, to a lesser degree, Massachusetts. In 1777 Vermont declared its independence and sought admission to the Union. On 7 August 1781, Congress resolved to appoint a committee to confer with Vermont's representatives "respecting their claim to be an independent State, and on what terms it may be proper to admit them into the federal union of these states, in case the United States in Congress assembled shall determine to recognize their independence . . ." (JCC, XXI, 836–38). Neither New York nor Vermont was pleased with the conditions of this resolution and the turmoil over Vermont continued.

3. See Convention Debates, 9 June (RCS:Va., 1052).

4. In his 10 October 1787 letter to the Speaker of the House of Delegates, Randolph advocated a method for proposing previous amendments and "set forth the particulars, which I conceive to require correction" (RCS:Va., 272–73).

5. Article 15 of the Declaration of Rights states: "That no free government, or the blessing of liberty, can be preserved to any people but by a firm adherence to justice, moderation, temperance, frugality, and virtue, and by frequent recurrence to fundamental principles" (RCS:Va., 531).

6. See Convention Debates, 7 June (RCS:Va., 1029–32).

7. See *The Histories of Polybius* (F. Hultsch, Evelyn S. Shuckburgh, and F. W. Walbank, trans. and eds., 2 vols., Bloomington, Ind., 1962), I, Book II, chapters 37–43, pp. 132–39.

8. Between 1780 and 1787, New York, Virginia, Massachusetts, Connecticut, and South Carolina ceded their western lands to Congress which accepted these cessions. North Carolina made a cession in June 1784, repealed it in November, and did not make its cession again until 1790. Georgia did not cede its western lands until 1802.

9. See Convention Debates, 6 June, note 8 (above).

10. Since the British carried off about 30,000 Virginia slaves, reparation for their loss was crucial to the state. On 23 June 1784, the House of Delegates voted to instruct the state's congressional delegation (which included James Monroe) to request that a remonstrance be sent to Great Britain complaining of Britain's infraction of Article VII of the Treaty of Peace (1783) and demanding reparation for the confiscated slaves. The delegates were also instructed to inform Congress that "a just regard to the national honor and interest of the citizens of this Commonwealth, obliges the Assembly to withhold their co-operation in the complete fulfilment of the said treaty, until the success of the aforesaid remonstrance is known, or Congress shall signify their sentiments touch-

ing the premises." The House also resolved that when Great Britain made reparation, "or Congress shall adjudge it indispensably necessary," the state ought to repeal any acts interfering with the recovery of British debts (*House Journal*, [3 May–30 June 1784 (Richmond, 1784)], 101–3; and Rutland, *Madison*, VIII, 58–63).

Reparation for the loss of its slaves continued to be an issue in Virginia. In December 1787 the state legislature, in accordance with a March 1787 resolution of Congress, passed an act repealing state laws that prevented the recovery of British debts, but it suspended the act until Great Britain evacuated its western posts and returned the confiscated slaves or made reparation for them (Hening, XII, 528. For Virginia's violation of the Treaty of Peace concerning the payment of British debts, see RCS:Va., xxv–xxvii.).

11. On 24 February 1785, Congress appointed John Adams Minister Plenipotentiary to Great Britain. On 7 March, it instructed him to "insist" that the British turn over their western posts "without further delay" and to "remonstrate against the infraction of the treaty of peace by the exportation of negroes and other American property. . . ." Adams presented a memorial to the Marquis of Carmarthen, the British Foreign Secretary, on 8 December. Whereupon, Carmarthen (on 28 February 1786) criticized America's failure to abide by Article IV of the Treaty of Peace, which required that creditors should meet with "no lawful impediment" to the collection of debts, and he enumerated the state laws that violated this treaty provision. He assured Adams that Britain would carry the treaty into full effect "whenever America shall manifest a real determination to fulfil her part of the treaty" (JCC, XXVIII, 98, 123; XXXI, 781–91. For more on Carmarthen's attitude toward the United States, see Convention Debates, 7 June, note 17, above.).

12. Monroe apparently refers to a loan of 1,000,000 florins (\$400,000) that John Adams and Thomas Jefferson had negotiated with Dutch bankers earlier in the year. On 22 May John Jay, the Secretary for Foreign Affairs, sent Congress Jefferson's 16 March letter informing him of the contract for the loan. On 23 May Congress appointed a committee to report on the letter, and on the 28th the committee recommended that Congress ratify the contract. The Confederation Board of Treasury submitted a notarized copy of the contract to Congress on 25 June, and on 2 July Congress ratified it (JCC, XXXIV, 174–75, 176–77, 185–86, 266–67, 282–83; and Boyd, XII, 672. For a similar loan that had been negotiated in 1787, see Convention Debates, 7 June, note 3, above.).

News of the loan had probably reached Richmond not long before Monroe spoke. On 26 and 28 May, respectively, two of Virginia's delegates to Congress, Cyrus Griffin and Edward Carrington, wrote James Madison about the Dutch loan (Rutland, *Madison*, XI, 59, 61).

13. See Convention Debates, 7 June (RCS:Va., 1025–26). James Madison made a similar remark on 4 June (RCS:Va., 941).

14. According to Alexander White, a Frederick delegate, Monroe had spoken for three hours (to Jean [Mrs. James] Wood, 10–11 June, V below).

15. John Marshall's speech is largely a response to Patrick Henry's remarks on 9 June (above).

16. Marshall is referring to a comment made by Patrick Henry about the case of Josiah Philips (see Convention Debates, 7 June, RCS:Va., 1038). For more on the Philips case, see Convention Debates, 6 June, note 5 (above).

17. "According to rule."

18. See Convention Debates, 6 June, note 15 (above).

19. See Convention Debates, 5 June (RCS:Va., 967).

20. See Convention Debates, 9 June, note 27 (above).

21. For the text of the amendments recommended by the Massachusetts Convention, see CC:508; and for their circulation in Virginia, see RCS:Va., 437n.

22. For the Virginia Declaration of Rights, see RCS:Va., 530–31.

23. See note 11 (above).

24. A reference to the Ohio Company's purchase in the Northwest Territory in October 1787.

25. Virginia asserted its right to the free navigation of the Mississippi River on several occasions, most recently in November 1787 (RCS:Va., xxix–xxi).

26. For the New England Confederacy, see Convention Debates, 7 June, note 10 (above).

27. For the resolution, see RCS:Va., 490n–91n.

28. See Article VIII of the Articles of Confederation (CDR, 89). The italics are not in the Articles.

29. The Printing Act of 1662 authorized the licensing of the press in England. The act was renewed several times until in 1694 the House of Commons opposed another renewal, thereby ending licensing (Frederick S. Siebert, *Freedom of the Press in England, 1476–1776* [Urbana, Ill., 1952], 237–63).

30. *Spirit of Laws*, I, Book IX, chapter 1, pp. 185–87.

### James Monroe: Draft of a Speech<sup>1</sup>

James Monroe apparently drafted this speech before addressing the Convention for the first time on 10 June. He left the draft unfinished and ignored it when he spoke on the 10th. In both the draft and the actual speech, Monroe divided his discussion of government, whether under the Articles of Confederation or the Constitution, into two categories—the form or organization of government and the powers of government.

It is not without the greatest reluctance that I presume to make any observations on the present subject, for it is of sufficient importance to awe & dismay a mind less diffident than my own—It is of importance not only as it involves in it the principles of our govt., a subject of the highest concern to mankind, but as it applies to the present circumstances of the confederacy, (so many States having adopted it & others sit) wh. we find torn & rended in every quarter by ye opposite partys—under this consideration I shod. yeild to my own wishes, be silent, & suffer the torrent to pass by me, if having been employ'd by my country in the practical experiment of the present govt, & of course in some degree acquainted with its defects, I did not feel it in some measure a duty to express my sentiments of these defects and of the merits or demerits of that which is now propos'd to be substituted in its place—I trust therefore as it is with reluctance that I shall make any observations on the subject & shall never presume to interfere with those aged & illustrious characters which it hath pleas'd our countrymen to place here upon the prest. occasion, that I shall be heard patiently in any observations I shall make.

It were hard upon these States if the revolution were not made a happy event to them—& in Those arguments Sir wh. are to be drawn from the present circumstances of the confederacy, so far as considerations of expedience are to be deduc'd from them, will I conceive



be improperly arg'd in the present stage—They shod. be taken up a part from the merits of the govt., wh. is now before us, & at the close of this discussion—I mean either with respect to the defects of the old govt., and the superiority or infery. of this to it. with respect to the manner in wh. it has been recd. by the States that have already been conven'd on it, & the probab[il]ity of losing this & even of disunion unless we adopt it, or any considerations of expedience—They shod. be taken up apt. from the merits of this govt. &ce &ce—

~~with respect to~~ as to the defects of the present govt., I take it to be a subject so thorough pac[e]d & well known from the many satisfactory reasons urg'd by Congress & the elaborate discussions that have been made here & elsewhere on it, that it is unnecessary to go into the subject, further than to mention these defects—and even a [recital?] of these appears unnecessary unless they shall be question'd in the course of the debate—I shall therefore proceed immediately to a view of the present plan & in the manner proposd.

In contemplating this subject a division naturally strikes me wh. does not appear to have occur'd to others—1st. as to the organization of the govt., &—2d as to its powers—This distinction applies to all its branches—the Legislative Executive & Juy.—The former or orgn. is the external form [&?] modification of it—The latter, or its powers, if I may use a metaphorical expression is the soul by wh. it is animated—we shod. therefore contemplate it as to its merits in these views—Let us examine it as to its general form first, or the great outlines of the govt.—& then as to the form of each branch—

I am perfectly satisfied of the propriety of a division of the govt. & a distribution of its powers into three branches, Legis—Ex: & Judy.—This has been long establish'd as a fundamental maxim with respect to one State or of a govt. erected over one people only—but it has been particularly dilated on and exemplified by Montesquieu & Loccke—The only question wh. arises in the present case is, whether such a division or distribution of power is suited to a confederacy of states and this is a new question wh. no nations have practis'd on or writers examin'd—The field is of course unexplor'd—They part with power or commit it to the genl. govt. for the common good—We will suppose the power delegated the proper measure, the real power wh. it shod. exercise for the benefit of the States, and of course that wh. they retain what they shod. retain for their particular interests. will this power then be better exercis'd thus distributed than if in the hands of one body?

with respect to the exercise of the power given to the late Congress by that body, I must confess that I am astonish'd that it ever conducted

the war, (organiz'd as it was) to a fortunate close—each State drawing in different directions, accomodating its measures to a state policy, it has been [a] matter of surprize to me that it ever mov'd on—superior talents have perhaps had less weight there than elsewhere—The delegates of States when they had points to carry, lament that great talents are oppos'd to them, that thereby they are so much harrass'd & embarrass'd, but never change their ground. In fact the govt. hath been so unweildly that it hath been often under the necessity of having recourse to extra[ordinar]y. means for its safety—the investing genl. W. with a kind of dictatorial power<sup>2</sup>—a recourse I shod. be sorry we shod. ever be compell'd to resort to after that character shall have left the stage—The difficulties of the govt. have often during my service led into extray. combinations to get it in motion, form'd powers foster'd measures, wh. have shewn that where the govt. has defects, men will be found having vices. These & other considerations have induc'd me long before this project was presented to our view to wish for such a division—yet some evils will be unavoidable under this division. The Presidt. will be the man of a State; is it not to be feard that he will weild the powers intrusted to him principally for the benefit of his State—The delegates of particular States [do?] it and altho he may be appointed by & in some measure be dependent on the genl. govt. yet as they expect to return there for their final residence, and of course depend for the more substantial benefits & bliss of human life may we not fear it will make a byas on their minds & conduct so as to make a job of the service[,] the only check his reelection [to] [ye?] Govt. Whether that consideration will counter balance the benefits of the change I will not pretend to determine, yet I will be candid to own that my experience of the defects of the former wod. induce me to make the experiment. whether this power is delegated to the President under the proper checks I shall examine hereafter.

propriety of judiciary to judge on laws in contradistinction to legislature, making them—

benefit to the legislature itself—more wisdom & temperance—

Judicial power will judge on subjects, on wh. the Congress have made no law—what rule will it take?

the Prest. shod. be left to himself with the hope of rising keeping in office before him, & unconnected with any body (senate) to whom he may attribute the errors of his adminis[tration] De LHome—pa:110.<sup>3</sup>

1. Dft, Monroe Papers, Miscellaneous Papers and Undated Letters, NN.
2. A reference to a proposal (made during the Revolution) to give George Washington, the Commander in Chief of the Continental Army, absolute power to raise and equip the army. (See Convention Debates, 6 June, note 15, above.)
3. Monroe probably refers to Jean Louis De Lolme's *The Constitution of England . . .* which was first published in French in 1771. Between 1775 and 1788, more than ten English-language editions of this work appeared, none of them in America. DeLolme stressed that the King, and the King alone, had the executive power; it was unified in him. Parliament exercised the legislative power. The executive and legislative power did not overlap. See especially Book I, chapters IV through VIII, and Book II, chapters I and II.

## The Virginia Convention Wednesday 11 June 1788

### Debates

The Convention, according to the order of the day, again resolved itself into a Committee of the whole Convention, to take into farther consideration, the proposed plan of Government.—Mr. *Wythe* in the Chair.

*(The first and second sections still under consideration.)*

Mr. *Madison*.<sup>1</sup>—Mr. Chairman,—It was my purpose to resume before now, what I had left unfinished, concerning the necessity of a radical change of our system.<sup>2</sup> The intermission which has taken place, has discontinued the progress of the argument, and has given opportunity to others to advance arguments on different parts of the plan. I hope we shall steer our course in a different manner from what we have hitherto done. I presume that vague discourses and mere sports of fancy, not relative to the subject at all, are very improper on this interesting occasion. I hope these will be no longer attempted, but that we shall come to the point. I trust we shall not go out of order, but confine ourselves to the clause under consideration. I beg Gentlemen would observe this rule. I shall endeavour not to depart from it myself.

The subject of direct taxation is perhaps one of the most important that can possibly engage our attention, or that can be involved in the discussion of this question. If it be to be judged by the comments made upon it, by the opposers and favourers of the proposed system, it requires a most clear and critical investigation. The objections against the exercise of this power by the General Government, as far as I am

able to comprehend them, are founded upon the supposition of its being unnecessary, impracticable, unsafe and accumulative of expence. I shall therefore consider, 1st, how far it may be necessary; 2dly, how far it may be practicable; 3dly, how far it may be safe, as well with respect to the public liberty at large, as to the State Legislatures; and 4thly, with respect to œconomy. First then, is it necessary? I must acknowledge that I concur in opinion with those Gentlemen who told you, that this branch of revenue was essential to the salvation of the Union. It appears to me necessary, in order to secure that punctuality which is necessary in revenue matters. Without punctuality individuals will give it no confidence; without which it cannot get resources. I beg Gentlemen to consider the situation of this country, if unhappily the Government were to be deprived of this power. Let us suppose for a moment, that one of those powers which may be unfriendly to us, should take advantage of our weakness, which they will be more ready to do when they know the want of this resource in our Government. Suppose it should attack us, what forces could we oppose to it? Could we find safety in such forces as we could call out? Could we call forth a sufficient number, either by draughts, or any other way, to repel a powerful enemy? The inability of the Government to raise and support regular troops, would compel us to depend on militia. It would be then necessary to give this power to the Government, or run the risk of a national annihilation. It is my firm belief, that if a hostile attack were made this moment on the United States, it would flash conviction on the minds of the citizens of the United States, of the necessity of vesting the Government with this power, which alone can enable it to protect the community. I do not wish to frighten the members of this Convention into a concession of this power, but to bring to their minds those considerations which demonstrate its necessity. If we were secured from the possibility, or the probability of danger, it might be unnecessary. I shall not review that concurrence of dangers which may probably arise at remote periods of futurity, nor all those which we have immediately to apprehend, for this would lead me beyond the bounds which I prescribed myself. But I will mention one single consideration drawn from fact itself. I hope to have your attention. By the treaty between the United States and his Most Christian Majesty, among other things it is stipulated, that the great principle on which the armed neutrality in Europe was founded, should prevail in case of future wars. The principle is this, that free ships shall make free goods, and that vessels and goods shall be both free from condemnation. Great-Britain did not recognize it. While all Europe was against her, she held out without acceding to it.<sup>3</sup> It has been considered for

some time past, that the flames of war, already kindled, would spread, and that France and England were likely to draw those swords which were so recently put up. This is judged probable. We should not be surprised in a short time, to consider ourselves as a neutral nation—France on one side, and Great-Britain on the other—What is the situation of America? She is remote from Europe, and ought not to engage in her politics or wars. The American vessels, if they can do it with advantage, may carry on the commerce of the contending nations. It is a source of wealth which we ought not to deny to our citizens. But, Sir, is there not infinite danger, that in despite of all our caution we shall be drawn into the war? If American vessels have French property on board, Great-Britain will seize them. By this means we shall be obliged to relinquish the advantage of a neutral nation, or be engaged in a war. A neutral nation ought to be respectable, or else it will be insulted and attacked. America in her present impotent situation would run the risk of being drawn in as a party in the war, and loose the advantage of being neutral. Should it happen that the British fleet should be superior, have we not reason to conclude, from the spirit displayed by that nation to us and to all the world, that we should be insulted in our own ports, and our vessels seized? But if we be in a respectable situation—If it be known that our Government can command the whole resources of the Union, we shall be suffered to enjoy the great advantages of carrying on the commerce of the nations at war; for none of them would be willing to add us to the number of their enemies. I shall say no more on this point, there being others which merit your consideration.

The expedient proposed by the Gentlemen opposed to this clause, is, that requisitions shall be made, and if not complied with in a certain time, that then taxation shall be recurred to. I am clearly convinced, that whenever requisitions shall be made, they will disappoint those who put their trust in them. One reason to prevent the concurrent exertions of all the States, will arise from the suspicion, in some States, of delinquency in others. States will be governed by the motives that actuate individuals.

When a tax law is in operation in a particular State, every citizen, if he knows of the energy of the laws to enforce payment, and that every other citizen is performing his duty, will cheerfully discharge his duty; but were it known that the citizens of one district were not performing their duty, and that it was left to the policy of the Government to make them come up with it, the citizens of the other districts would be very supine and careless in making provisions for payment. Our own experience makes the illustration more natural. If

requisitions be made on thirteen different States, when one deliberates on the subject, she will know that all the rest will deliberate upon it also. This, Sir, has been a principal cause of the inefficacy of requisitions heretofore, and will hereafter produce the same evil. If the Legislatures are to deliberate on this subject, (and the Honorable Gentleman opposed to this clause, thinks their deliberation necessary) is it not presumeable, that they will consider peculiar local circumstances? In the General Council, on the contrary, the sense of all America will be drawn to a single point. The collective interest of the Union at large, will be known and pursued. No local views will be permitted to operate against the general welfare. But when propositions would come before a particular State, there is every reason to believe, that qualifications of the requisitions would be proposed—compliance might be promised, and some instant remittances might be made. This will cause delays, which in the first instance will produce disappointment. This also will make failures every where else. This I hope will be considered with the attention it deserves. The public creditors will be disappointed, and more pressing. Requisitions will be made for purposes equally pervading all America; but the exertions to make compliances will probably be not uniform in the States. If requisitions be made for future occasions; for putting the States in a state of military defence, or to repel an invasion, will the exertions be uniform and equal in all the States? Some parts of the United States are more exposed than others. Will the least exposed States exert themselves equally? We know that the most exposed will be more immediately interested, and will make less sacrifices in making exertions. I beg Gentlemen to consider that this argument will apply with most effect to the States which are most defenceless and exposed. The Southern States are most exposed, whether we consider their situation, or the smallness of their population. And there are other circumstances which render them still more vulnerable, which do not apply to the Northern States. They are therefore more interested in giving the Government a power to command the whole strength of the Union in cases of emergency. Do not Gentlemen conceive that this mode of obtaining supplies from the States, will keep alive animosities between the General Government and particular States? Where the chances of failures are so numerous as thirteen, by the thirteen States, disappointment in the first place, and consequent animosity, must inevitably take place.

Let us consider the alternative proposed by Gentlemen instead of the power of laying direct taxes. After the States shall have refused to comply, weigh the consequences of the exercise of this power by

Congress. When it comes in the form of a punishment, great clamours will be raised among the people against the Government; hatred will be excited against it. It will be considered as an ignominious stigma on the State. It will be considered at least in this light by the State where the failure is made, and these sentiments will no doubt be diffused through the other States. Now let us consider the effect, if collectors are sent where the State Governments refuse to comply with requisitions. It is too much the disposition of mankind not to stop at one violation of duty. I conceive that every requisition that will be made on any part of America, will kindle a contention between the delinquent member, and the General Government. Is there no reason to suppose divisions in the Government (for seldom does any thing pass with unanimity) on the subject of requisitions? The parts least exposed will oppose those measures which may be adopted for the defence of the weakest parts. Is there no reason to presume, that the Representatives from the delinquent State will be more likely to foster disobedience to the requisitions of the Government, than study to recommend them to the public?

There is, in my opinion, another point of view in which this alternative will produce great evil. I will suppose, what is very probable, that partial compliances will be made. A difficulty here arises which fully demonstrates its impolicy. If a part be paid, and the rest withheld, how is the General Government to proceed? They are to impose a tax, but how shall it be done in this case? Are they to impose it by way of punishment, on those who have paid, as well as those who have not? All these considerations taken in view (for they are not visionary or fanciful speculations) will, perhaps, produce this consequence. The General Government to avoid those disappointments which I first described, and to avoid the contentions and embarrassments which I last described, will, in all probability, throw the public burdens on those branches of revenue which will be more in their power. They will be continually necessitated to augment the imposts. If we throw a disproportion of the burdens on that side, shall we not discourage commerce, and suffer many political evils? Shall we not increase that disproportion on the Southern States, which for some time will operate against us? The Southern States, from having fewer manufactures, will import and consume more. They will therefore pay more of the imposts. The more commerce is burdened, the more the disproportion will operate against them. If direct taxation be mixed with other taxes, it will be in the power of the General Government to lessen that inequality. But this inequality will be increased to the utmost extent, if the General Government have not this power. There is another point

of view in which this subject affords us instruction. The imports will decrease in time of war. The Honorable Gentleman who spoke yesterday [James Monroe], said, that the imposts would be so productive, that there would be no occasion of laying taxes. I will submit two observations to him and the Committee. First: In time of war the imposts will be less; and as I hope we are considering a Government for a perpetual duration, we ought to provide for every future contingency. At present our importations bear a full proportion to the full amount of our sales, and to the number of our inhabitants; but when we have inhabitants enough, our imports will decrease; and as the national demands will increase with our population, our resources will increase as our wants increase. The other consideration which I will submit on this part of the subject is this:—I believe that it will be found in practice, that those who fix the public burdens, will feel a greater degree of responsibility when they are to impose them on the citizens immediately, than if they were only to say what sum should be paid by the States. If they exceed the limits of propriety, universal discontentment and clamour will arise. Let us suppose they were to collect the taxes from the citizens of America—would they not consider their circumstances? Would they not attentively consider what could be done by the citizens at large? Were they to exceed in their demands, what were reasonable burdens, the people would impute it to the right source, and look on the imposers as odious. When I consider the nature of the various objections brought against this clause, I should be led to think, that the difficulties were such that Gentlemen would not be able to get over them, and that the power, as defined in the plan of the Convention, was impracticable. I shall trouble them with a few observations on that point.

It has been said, that ten men deputed from this State, and others in proportion from other States, will not be able to adjust direct taxes so as to accommodate the various citizens in thirteen States.

I confess I do not see the force of this observation. Could not ten intelligent men, chosen from ten districts from this State, lay direct taxes on a few objects in the most judicious manner? It is to be conceived, that they would be acquainted with the situation of the different citizens of this country. Can any one divide this State into any ten districts so as not to contain men of sufficient information? Could not one man of knowledge be found in a district? When thus selected, will they not be able to carry their knowledge into the General Council? I may say with great propriety, that the experience of our own Legislature demonstrates the competency of Congress to lay taxes wisely. Our Assembly consists of considerably more than a hundred, yet from



the nature of the business, it devolves on a much smaller number. It is through their sanction, approved of by all the others. It will be found that there are seldom more than ten men who rise to high information on this subject. Our Federal Representatives, as has been said by the Gentleman, (Mr. *Marshall*) who entered into the subject with a great deal of ability, will get information from the State Governments. They will be perfectly well informed of the circumstances of the people of the different States, and the mode of taxation that would be most convenient for them, from the laws of the States. In laying taxes, they may even refer to the State systems of taxation. Let it not be forgotten, that there is a probability, that that ignorance which is complained of in some parts of America, will be continually diminishing. Let us compare the degree of knowledge which the people had in time past, to their present information. Does not our own experience teach us, that the people are better informed than they were a few years ago? The citizen of Georgia knows more now of the affairs of New-Hampshire, than he did before the revolution, of those of South-Carolina. When the Representatives from the different States are collected together, to consider this subject, they will interchange their knowledge with one another, and will have the laws of each State on the table. Besides this, the intercourse of the States will be continually increasing. It is now much greater than before the revolution. My honorable friend over the way, (Mr. *Monro*) yesterday, seemed to conceive, as an insuperable objection, that if land were made the particular object of taxation, it would be unjust, as it would exonerate the commercial part of the community—That if it were laid on trade, it would be unjust in discharging the landholders; and that any exclusive selection would be unequal and unfair. If the General Government were tied down to one object, I confess the objection would have some force in it. But if this be not the case, it can have no weight. If it should have a general power of taxation, they could select the most proper objects, and distribute the taxes in such a manner, as that they should fall in a due degree on every member of the community. They will be limited to fix the proportion of each State, and they must raise it in the most convenient and satisfactory manner to the public.

The honorable member [James Monroe] considered it as another insuperable objection, that uniform laws could not be made for thirteen States, and that dissonance would produce inconvenience and oppression. Perhaps it may not be found, on due enquiry, to be so impracticable as he supposes. But were it so, where is the evil of different laws operating in different States, to raise money for the General Government? Where is the evil of such laws? There are in-

stances in other countries, of different laws operating in different parts of the country, without producing any kind of oppression. The revenue-laws are different in England and Scotland in several respects. Their laws relating to custom, excises, and trade, are similar; but those respecting direct taxation are dissimilar. There is a land-tax in England, and a land-tax in Scotland, but the laws concerning them are not the same. It is much heavier in proportion, in the former than in the latter. The mode of collection is different—yet this is not productive of any national inconvenience. Were we to conclude from the objections against the proposed plan, this dissimilarity, in that point alone, would have involved those kingdoms in difficulties. In England itself, there is a variety of different laws operating differently in different places.

I will make another observation on the objection of my honorable friend. He seemed to conclude, that concurrent collections under different authorities, were not reducible to practice. I agree that were they independent of the people, the argument would be good. But they must serve one common master. They must act in concert, or the defaulting party must bring on itself the resentment of the people. If the General Government be so constructed, that it will not dare to impose such burdens, as will distress the people, where is the evil of its having a power of taxation concurrent with the States? The people would not support it were it to impose oppressive burdens. Let me make one more comparison of the State Governments to this plan. Do not the States impose taxes for local purposes? Does the concurrent collection of taxes, imposed by the Legislatures for general purposes, and of levies laid by the counties for parochial and county purposes, produce any inconvenience or oppression? The collection of these taxes is perfectly practicable, and consistent with the views of both parties. The people at large are the common superior of the State Governments, and the General Government. It is reasonable to conclude, that they will avoid interferences for two causes—To avoid public oppression, and to render the collections more productive. I conceive they will be more likely to produce disputes, in rendering it convenient for the people, than run into interfering regulations.

In the third place I shall consider, whether the power of taxation to be given the General Government be safe: And first, whether it be safe as to the public liberty in general. It would be sufficient to remark, that they are, because, I conceive, the point has been clearly established by more than one Gentleman who has spoken on the same side of the question. In the decision of this question, it is of importance to examine, whether elections of Representatives by great districts of free-

holders be favourable to fidelity in Representatives. The greatest degree of treachery in Representatives, is to be apprehended where they are chosen by the least number of electors; because there is a greater facility of using undue influence, and because the electors must be less independent. This position is verified in the most unanswerable manner, in that country to which appeals are so often made, and sometimes instructively. Who are the most corrupt members in Parliament? Are they not the inhabitants of small towns and districts? The supporters of liberty are from the great counties. Have we not seen that the Representatives of the city of London, who are chosen by such thousands of voters, have continually studied and supported the liberties of the people, and opposed the corruption of the Crown? We have seen continually that most of the members in the ministerial majority are drawn from small circumscribed districts. We may therefore conclude, that our Representatives being chosen by such extensive districts, will be upright and independent. In proportion as we have security against corruption in Representatives, we have security against corruption from every other quarter whatsoever. I shall take a view of certain subjects which will lead to some reflections, to quiet the minds of those Gentlemen who think that the individual Governments will be swallowed up by the General Government. In order to effect this, it is proper to compare the State Governments to the General Government with respect to reciprocal dependence, and with respect to the means they have of supporting themselves, or of encroaching on one another. At the first comparison we must be struck with these remarkable facts. The General Government has not the appointment of a single branch of the individual Governments, or of any officers within the States, to execute their laws. Are not the States integral parts of the General Government? Is not the President chosen under the influence of the State Legislatures? May we not suppose that he will be complaisant to those from whom he has his appointment, and from whom he must have his re-appointment? The Senators are appointed altogether by the Legislatures.

My honorable friend [James Monroe] apprehended a coalition between the President, Senate, and House of Representatives against the States. This could be supposed only from a similarity of the component parts.

A coalition is not likely to take place, because its component parts are heterogeneous in their nature. The House of Representatives is not chosen by the State Governments, but under the influence of those who compose the State Legislature. Let us suppose ten men appointed to carry the Government into effect, there is every degree of certainty,

that they would be indebted for their re-election, to the members of the Legislatures. If they derive their appointment from them, will they not execute their duty to them? Besides this, will not the people (whose predominant interest will ultimately prevail) feel great attachment to the State Legislatures? They have the care of all local interests—Those familiar domestic objects, for which men have the strongest predilection. The General Government on the contrary, has the preservation of the aggregate interests of the Union—objects, which being less familiar, and more remote from men's notice, have a less powerful influence on their minds. Do we not see great and natural attachments arising from local considerations? This will be the case in a much stronger degree in the State Governments, than in the General Government. The people will be attached to their State Legislatures from a thousand causes; and into whatever scale the people at large will throw themselves, that scale will preponderate. Did we not perceive in the early stages of the war, when Congress was the idol of America, and when in pursuit of the object most dear to America, that they were attached to their States? Afterwards the whole current of their affection was to the States, and would be still the case were it not for the alarming situation of America.

At one period of the Congressional history, they had power to trample on the States. When they had that fund of paper money in their hands, and could carry on all their measures without any dependence on the States,<sup>4</sup> was there any disposition to debase the State Governments? All that municipal authority which was necessary to carry on the administration of the Government, they still retained unimpaired. There was no attempt to diminish it.

I am led by what fell from my honorable friend yesterday to take this supposed combination in another view. Is it supposed, that the influence of the General Government will facilitate a combination between the members? Is it supposed, that it will preponderate against that of the State Governments? The means of influence consists in having the disposal of gifts and emoluments, and in the number of persons employed by, and dependent upon a Government. Will any Gentleman compare the number of persons, which will be employed in the General Government, with the number of those which will be in the State Governments? The number of dependents upon the State Governments will be infinitely greater than those on the General Government. I may say with truth, that there never was a more economical Government in any age or country; nor which will require fewer hands, or give less influence.

Let us compare the members composing the Legislative, Executive,

and Judicial powers in the General Government, with those in the States, and let us take into view the vast number of persons employed in the States; from the chief officers to the lowest, we will find the scale preponderating so much in favor of the States, that while so many persons are attached to them, it will be impossible to turn the balance against them. There will be an irresistible bias towards the State Governments. Consider the number of militia officers, the number of Justices of the Peace, the number of the members of the Legislatures, and all the various officers for districts, towns, and corporations, all intermixing with, and residing among the people at large. While this part of the community retains their affection to the State Governments, I conceive that the fact will be, that the State Governments, and not the General Government, will preponderate. It cannot be contradicted that they have more extensive means of influence. I have my fears as well as the Honorable Gentleman—But my fears are on the other side. Experience, I think, will prove (though there be no infallible proof of it here) that the powerful and preva[i]ling influence of the States, will produce such attention to local considerations as will be inconsistent with the advancement of the interests of the Union. But I choose rather to indulge my hopes than fears, because I flatter myself, if inconveniences should result from it, that the clause which provides amendments will remedy them. The combination of powers vested in those persons, would seem conclusive in favor of the States.

The powers of the General Government relate to external objects, and are but few. But the powers in the States relate to those great objects which immediately concern the prosperity of the people. Let us observe also, that the powers in the General Government are those which will be exercised mostly in time of war, while those of the State Governments will be exercised in time of peace. But I hope the time of war will be little compared to that of peace. I should not complete the view which ought to be taken of this subject, without making this additional remark, that the powers vested in the proposed Government, are not so much an augmentation of powers in the General Government, as a change rendered necessary, for the purpose of giving efficacy to those which were vested in it before. It cannot escape any Gentleman, that this power in theory, exists in the Confederation, as fully as in this Constitution. The only difference is this, that now they tax States, and by this plan they will tax individuals. There is no theoretic difference between the two. But in practice there will be an infinite difference between them. The one is an ineffectual power: The other is adequate to the purpose for which it is given. This change was necessary for the public safety.

Let us suppose for a moment, that the acts of Congress requiring money from the States, had been as effectual as the paper on the table—Suppose all the laws of Congress had had complete compliance, will any Gentleman say, as far as we can judge from past experience, that the State Governments would have been debased, and all consolidated and incorporated in one system? My imagination cannot reach it. I conceive, that had those acts that effect which all laws ought to have, the States would have retained their sovereignty.

It seems to be supposed, that it will introduce new expences and burdens on the people. I believe it is not necessary here to make a comparison between the expences of the present and of the proposed Government. All agree that the General Government ought to have power for the regulation of commerce. I will venture to say, that very great improvements and very œconomical regulations will be made. It will be a principal object to guard against smuggling, and such other attacks on the revenue as other nations are subject to. We are now obliged to defend against those lawless attempts, but from the interfering regulations of different States, with little success. There are regulations in different States which are unfavourable to the inhabitants of other States, and which militate against the revenue. New-York levies money from New-Jersey by her imposts. In New-Jersey, instead of co-operating with New-York, the Legislature favors violations on her regulations. This will not be the case when uniform regulations will be made.

Requisitions though ineffectual are unfriendly to œconomy.—When requisitions are submitted to the States, there are near 2500 or 2000 persons deliberating on the mode of payment. All these, during their deliberation, receive public pay. A great proportion of every session, in every State, is employed to consider whether they will pay at all, and in what mode. Let us suppose 1500 persons are deliberating on this subject. Let any one make a calculation—It will be found that a very few days of their deliberation will consume more of the public money, than one year of that of the General Legislature. This is not all, Mr. Chairman. When general powers will be vested in the General Government, there will be less of that mutability which is seen in the Legislation of the States. The consequence will be a great saving of expence and time. There is another great advantage which I will but barely mention. The greatest calamity to which the United States can be subject, is a vicissitude of laws, and continual shifting and changing from one object to another, which must expose the people to various inconveniences. This has a certain effect, of which sagacious men always have, and always will make an advantage. From whom is this advantage

made? From the industrious farmers and tradesmen, who are ignorant of the means of making such advantages. The people will not be exposed to these inconveniences under an uniform and steady course of Legislation. But they have been so heretofore. The history of taxation of this country is so fully and well known to every member of this Committee, that I shall say no more of it.

We have hitherto discussed the subject very irregularly. I dare not dictate to any Gentleman, but I hope we shall pursue that mode of going through the business, which the House resolved. With respect to a great variety of arguments made use of, I mean to take notice of them when we come to those parts of the Constitution to which they apply. If we exchange this mode, for the regular way of proceeding, we can finish it better in one week than in one month.

A desultory conversation arose concerning the mode of discussion.

Mr. *Henry* declared it as his opinion, that the best mode was to discuss it at large. That the Gentlemen on the other side had done so, as well as those of his side; and he hoped that every Gentleman would consider himself at liberty to go into the subject fully, because he thought it the best way to elucidate it.

Mr. *Madison* wished not to exclude any light that could be cast on the subject. He declared that he would be the last man that would object to the fullest investigation; but at the same time, he thought it would be more elucidated by a regular progressive discussion, than by that unconnected irregular method which they had hitherto pursued.

Mr. *George Mason*.—Mr. Chairman,—Gentlemen will be pleased to consider, that on so important a subject as this, it is impossible in the nature of things, to avoid arguing more at large than is usual. You will allow that I have not taken up a great part of your time. But as Gentlemen have indulged themselves in entering at large into the subject, I hope to be permitted to follow them, and answer their observations.

The worthy member (Mr. *Nicholas*) at a very early day, gave us an accurate detail of the representation of the people in Britain, and of the rights of the King of Britain; and illustrated his observations by a quotation from Doctor Price.<sup>5</sup> Gentlemen will please to take notice, that those arguments relate to a single Government, and that they are not applicable to this case. However applicable they may be to such a Government as that of Great-Britain, it will be entirely inapplicable to such a Government as ours. The Gentleman in drawing a comparison between the representation of the people in the House of Commons in England, and the representation in the Government now proposed to us, has been pleased to express his approbation in favor of

the American Government. Let us examine. I think that there are about 550 members in the English House of Commons. The people of Britain have a representation in Parliament of 550 members, who intimately mingle with all classes of the people, feeling and knowing their circumstances. In the proposed American Government—in a country perhaps ten times more extensive, we are to have a representation of 65, who from the nature of the Government, cannot possibly be mingled with the different classes of the people, nor have a fellow-feeling for them. They must form an Aristocracy, and will not regard the interest of the people. Experience tells us, that men pay most regard to those whose rank and situation are similar to their own. In the course of the investigation, the Gentleman mentioned the bribery and corruption of Parliament, and drew a conclusion, the very reverse of what I should have formed on the subject. He said, if I recollect rightly, that the American representation is more secured against bribery and corruption, than the English Parliament. Are 65 better than 550? Bribery and corruption, in my opinion, will be practised in America more than in England, in proportion as 550 exceed 65; and there will be less integrity and probity in proportion as 65 is less than 550. From what source is the bribery practised in the British Parliament derived? I think the principal source is the distribution of places, offices, and posts. Will any Gentleman deny this? Give me leave on this occasion to recur to that clause of the Constitution, which speaks of restraint, and has the appearance of restraining from corruption, &c. but which, when examined, will be found to be no restraint at all. The clause runs thus: “No Senator, or Representative, shall during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States, shall be a member of either House during his continuance in office.” This appears to me to be no restraint at all. It is to be observed, that this restraint only extends to civil offices. But I will not examine whether it be a proper distinction or not. What is the restraint as to civil offices? Only that they shall not be appointed to offices which shall have been created, or the emoluments whereof shall have been increased during the time for which they shall have been elected. They may be appointed to existing offices, if the emoluments be not increased during the time for which they were elected. (Here Mr. *Mason* spoke too low to be heard.) Thus after the Government is set in motion, the restraint will be gone. They may appoint what number of officers they please. They may send Ambassadors to every part of Europe. Here is, Sir, I think,



as wide a door for corruption as in any Government in Europe—There is the same inducement for corruption—There is the same room for it in this Government, which they have in the British Government, and in proportion as the number is smaller, corruption will be greater.

That unconditional power of taxation which is given to that Government cannot but oppress the people. If instead of this, a conditional power of taxation be given, in case of refusal to comply with requisitions, the same end will be answered with convenience to the people. This will not lessen the power of Congress. We do not want to lessen the power of Congress unnecessarily. This will produce moderation in the demand, and will prevent the ruinous exercise of that power by those who know not our situation. We shall then have that mode of taxation which is the most easy, and least oppressive to the people, because it will be exercised by those who are acquainted with their condition and circumstances. This, Sir, is the great object we wish to secure, that our people should be taxed by those who have a fellow-feeling for them. I think I can venture to assert, that the General Government will lay such taxes as are the easiest and most productive in the collection. This is natural and probable. For example—They may lay a poll tax. This is simple and easily collected, but is of all taxes the most grievous—Why the most grievous? Because it falls light on the rich, and heavy on the poor. It is most oppressive, for if the rich man is taxed, he can only retrench his superfluities; but the consequence to the poor man is, that it increases his miseries. That they will lay the most simple taxes, and such as are easiest to collect, is highly probable, nay, almost absolutely certain. I shall take the liberty on this occasion, to read you a letter which will shew, at least as far as opinion goes, what sort of taxes will be most probably laid on us, if we adopt this Constitution. It was the opinion of a Gentleman of information. It will in some degree establish the fallacy of those reports which have been circulated through the country, and which induced a great many poor ignorant people to believe that the taxes were to be lessened by the adoption of the proposed Government.—(Here Mr. *Mason* read a letter from Mr. Robert Morris, financier of the United States, to Congress, wherein he spoke of the propriety of laying the following taxes for the use of the United States; viz: six shillings on every hundred acres of land, six shillings per poll, and nine pence per gallon on all spirituous liquours distilled in the country. Mr. *Mason* declared, that he did not mean to make the smallest reflection on Mr. Morris, but introduced his letter to shew what taxes would probably be laid.)<sup>6</sup>—He then continued—This will at least shew that such taxes were in agitation, and were strongly advocated by a considerable part

of Congress. I have read this letter to shew that they will lay the taxes most easy to be collected, without any regard to our convenience; so that instead of amusing ourselves with a diminution of our taxes, we may rest assured that they will be increased. But my principal reason for introducing it was, to shew that taxes would be laid by those who are not acquainted with our situation, and that the agents of the collection may be consulted upon the most productive and most simple mode of taxation. The Gentleman who wrote this letter had more information on this subject than we have, but this will shew Gentlemen that we are not to be eased of taxes. Any of these taxes which have been pointed out by this financier as the most eligible, will be ruinous and unequal, and will be particularly oppressive on the poorest part of the people. As to a poll tax, I have already spoken of its iniquitous operation, and need not say much of it, because it is so generally disliked in this State, that we were obliged to abolish it last year.<sup>7</sup> As to a land tax—it will operate most unequally. The man who has 100 acres of the richest land will pay as little as a man who has 100 acres of the poorest land. Near Philadelphia or Boston an acre of land is worth one hundred pounds, yet the possessor of it will pay no more than the man with us whose land is hardly worth 20 shillings an acre. Some land-holders in this State will have to pay 20 times as much as will be paid for all the land on which Philadelphia stands. And as to excises—This will carry the exciseman to every farmer's house who distills a little brandy, where he may search and ransack as he pleases. These I mention as specimens of the kind of tax which is to be laid upon us by those who have no information of our situation, and by a Government where the wealthy are only represented. It is urged, that no new power is given up to the General Government, and that the Confederation had those powers before. That system derived its power from the State Governments. When the people of Virginia formed their Government, they reserved certain great powers in the Bill of Rights. They would not trust their own citizens, who had a similarity of interest with themselves, and who had frequent and intimate communication with them. They would not trust their own fellow-citizens, I say, with the exercise of those great powers reserved in the Bill of Rights. Do we not by this system give up a great part of the rights, reserved by the Bill of Rights, to those who have no fellow-feeling for the people—To a Government where the Representatives will have no communication with the people? I say then that there are great and important powers which were not transferred to the State Government, given up to the General Government by this Constitution.

Let us advert to the 6th article. It expressly declares that, "This

Constitution and the laws of the United States, which shall be made in pursuance thereof; and all treaties made, or which shall be made under the authority of the United States, shall be the supreme law of the land, and the Judges in every State shall be bound thereby, any thing in the Constitution or laws of any State to the contrary notwithstanding." Now, Sir, if the laws and Constitution of the General Government, as expressly said, be paramount to those of any State, are not those rights with which we were afraid to trust our own citizens annulled and given up to the General Government? The Bill of Rights is a part of our own Constitution. The Judges are obliged to take notice of the laws of the General Government, consequently the rights secured by our Bill of Rights are given up. If they are not given up, where are they secured? By implication? Let Gentlemen shew that they are secured in a plain, direct, unequivocal manner. It is not in their power. Then where is the security? Where is the barrier drawn between the Government and the rights of the citizens, as secured in our own State Government? These rights are given up in that paper, but I trust this Convention will never give them up, but will take pains to secure them to the latest posterity. If a check be necessary in our own State Government, it is much more so in a Government where our Representatives are to be at the distance of 1000 miles from us without any responsibility.

I said the other day, that they could not have sufficient information.—I was asked how the Legislature of Virginia got their information. The answer is easy and obvious. They get it from 160 Representatives dispersed through all parts of the country. In this Government how do they get it? Instead of 160, there are but 10—chosen, if not wholly, yet mostly from the higher order of the people—from the great—the wealthy—the *well-born*. The *well-born*—Mr. Chairman, that Aristocratic idol—that flattering idea—that *exotic* plant which has been lately imported from the ports of Great-Britain, and planted in the luxuriant soil of this country.<sup>8</sup>

In the course of the investigation, much praise has been lavished upon the article which fixes the number of Representatives. It only says, that the proportion *shall not exceed* one for every 30,000. The worthy Gentleman [George Nicholas] says that the number must be increased, because representation and taxation are in proportion, and that one cannot be increased without increasing the other, nor decreased without decreasing the other. Let us examine the weight of this argument. If the proportion of each State equally and rateably diminishes, the words of the Constitution will be as much satisfied as if it increased in the same manner, without any reduction of the taxes.

Let us illustrate it familiarly. Virginia has ten Representatives—Maryland has six. Virginia will have to pay a sum in proportion greater than Maryland, as ten are to six. Suppose Virginia reduced to five and Maryland to three. The relative proportion of money, paid by each, will be the same as before: And yet the Honorable Gentleman [George Nicholas] said, that if this did not convince us he would give up. I am one of those unhappy men who cannot be amused with assertions. A man from the dead might frighten me, but I am sure that he could not convince me without using better arguments than I have yet heard.

The same Gentleman shewed us, that though the Northern States had a most decided majority against us, yet the increase of population among us would in the course of years change it in our favor. A very sound argument indeed, that we should cheerfully burn ourselves to death in hopes of a joyful and happy resurrection!

The very worthy Gentleman [Edmund Pendleton] who presides, was pleased to tell us, that there was no interference between the legislation of the General Government and that of the State Legislatures. Pardon me if I shew the contrary. In the important instance of taxation there is a palpable interference.—Suppose a poll-tax—The General Government can lay a poll-tax.—The State Legislature can do the same. Can lay it on the same man, and at the same time. And yet it is said there can be no interference!

My honorable colleague in the late Federal Convention [Edmund Randolph], in answer to another Gentleman [Patrick Henry] who had said, that the annals of mankind could afford no instance of rulers giving up power, has told us that eight States had adopted the Constitution, and that this was a relinquishment of power. Ought this example to have any weight with us? If that relinquishment was imprudent, shall we imitate it? I will venture to assert, that out of a thousand instances where the people precipitately and unguardedly relinquished their power, there has not been one instance of a voluntary surrender of it back by rulers. He afterwards said, that freedom at home and respectability abroad would be the consequence of the adoption of this Government, and that we cannot exist without its adoption. Highly as I esteem that Gentleman, highly as I esteem his historical knowledge, I am obliged to deny his assertions.

If this Government will endanger our liberties in its present state, its adoption will not promote our happiness at home. The people of this country are as independent, happy, and respectable, as those of any country. France is the most powerful and respectable nation on earth—Would the planters of this country change their shoes for the wooden shoes of the peasants of France? Perhaps Russia is the next

greatest power in Europe. Would we change situations with the people of Russia? We have heard a great deal of Holland. Some have called its Government a Democracy—Others have called it an Aristocracy. It is well known to be a Republic. It has arisen to uncommon power and wealth. Compared to its neighbouring countries, its fortune has been surprising. (Here Mr. *Mason* made a quotation, shewing the comparative flourishing condition of the inhabitants of Holland, even a few years after they had shaken off the Spanish yoke. That plenty and contentment were to be every where seen—The peasants well clothed—Provisions plenty—Their furniture and domestic utensils in abundance, and their lands well stocked. That on the contrary the people of Spain were in a poor and miserable condition—In want of every thing of which the people of Holland enjoyed the greatest abundance.)—Mr. *Mason* then continued.—As this was within a few years after the Spanish revolution, this striking contrast could be owing to no other cause than the liberty which they enjoyed under their Government. Here behold the difference between a powerful great consolidation and a confederacy. They tell us, that if we be powerful and respectable abroad, we shall have liberty and happiness at home. Let us secure that liberty—that happiness first, and we shall then be respectable.

I have some acquaintance with a great many characters who favor this Government—Their connections, their conduct, their political principles, and a number of other circumstances. There are a great many wise and good men among them. But when I look around the number of my acquaintance in Virginia, the country wherein I was born, and have lived so many years, and observe *who* are the warmest and the most zealous friends to this new Government, it makes me think of the story of the cat transformed into a fine Lady. Forgetting her transformation and happening to see a rat, she could not restrain herself, but sprung upon it out of the chair.<sup>9</sup>

He (Governor *Randolph*) dwelt largely on the necessity of the Union. A great many others have enlarged on this subject. Foreigners would suppose, from the declamation about Union, that there was a great dislike in America to any General American Government. I have never in my whole life heard one single man deny the necessity and propriety of the Union. This necessity is deeply impressed on every American mind. There can be no danger of any object being lost when the mind of every man in the country is strongly attached to it. But I hope that it is not to the name, but to the blessings of Union that we are attached. Those Gentlemen who are loudest in their praises of the name, are not more attached to the reality than I am. The security of our liberty

and happiness is the object we ought to have in view in wishing to establish the Union. If instead of securing these, we endanger them, the name of Union will be but a trivial consolation. If the objections be removed—If those parts which are clearly subversive of our rights be altered, no man will go further than I will to advance the Union. We are told in strong language, of dangers to which we will be exposed unless we adopt this Constitution. Among the rest, domestic safety is said to be in danger. This Government does not attend to our domestic safety. It authorises the importation of slaves for twenty odd years, and thus continues upon us that nefarious trade. Instead of securing and protecting us, the continuation of this detestable trade, adds daily to our weakness. Though this evil is increasing, there is no clause in the Constitution that will prevent the Northern and Eastern States from meddling with our whole property of that kind. There is a clause to prohibit the importation of slaves after twenty years, but there is no provision made for securing to the Southern States those they now possess. It is far from being a desirable property. But it will involve us in great difficulties and infelicity to be now deprived of them. There ought to be a clause in the Constitution to secure us that property, which we have acquired under our former laws, and the loss of which would bring ruin on a great many people.

Maryland and Potowmack have been mentioned. I have had some little means of being acquainted with that subject, having been one of the Commissioners who made the compact with Maryland. There is no cause of fear on that ground. Maryland, says the Gentleman, has a right to the navigation of the Potowmack.—This is a right which she never exercised. Maryland was pleased with what she had in return for a right which she never exercised. Every ship which comes within the State of Maryland, except some small boats, must come within our country. Maryland was very glad to get what she got by this compact, for she considered it as next to getting it without any compensation on her part. She considered it at least as next to a *quid pro quo*.<sup>10</sup>

The back lands, he says, is another source of danger. Another day I will shew, that if that Constitution is adopted without amendments, there are 20,000 families of good citizens in the North-West District, between the Allegany mountains and the Blue Ridge, who will run the risk of being driven from their lands. They will be ousted from them by the Indiana company—by the survivors, although their rights and titles have been confirmed by the Assembly of our own State. I will pursue it no further now, but take an opportunity to consider it another time.<sup>11</sup>

The alarming magnitude of our debts is urged as a reason for our

adoption. And shall we because involved in debts, take less care of our rights and liberties? Shall we abandon them because we owe money which we cannot immediately pay? Will this system enable us to pay our debts and lessen our difficulties? Perhaps the new Government possesses some secret, some powerful means of turning every thing to gold. It has been called by one Gentleman the philosopher's stone.<sup>12</sup> The comparison was a pointed one at least in this, that on the subject of producing gold they will be both equally delusive and fallacious. The one will be as inapplicable as the other. The dissolution of the Union, the dangers of separate Confederacies, and the quarrels of borderers, have been enlarged upon to persuade us to embrace this Government.

My honorable colleague in the late Convention [Edmund Randolph], seems to raise phantoms, and to shew a singular skill in exorcisms, to terrify and compel us to take the new Government with all its sins and dangers. I know that he once saw as great danger in it as I do. What has happened since to alter his opinion? If any thing—I know it not. But the Virginian Legislature has occasioned it by postponing the matter. The Convention has met in June instead of March or April. The liberty or misery of millions yet unborn are deeply concerned in our decision. When this is the case, I cannot imagine that the short period between the last of September and first of June ought to make any difference. The Union between England and Scotland has been strongly instanced by the Honorable Gentleman, to prove the necessity of our acceding to this new Government. He must know that the act of Union secured the rights of the Scotch nation. The rights and privileges of the people of Scotland are expressly secured.<sup>13</sup> We wish only our rights to be secured. We must have such amendments as will secure the liberties and happiness of the people, on a plain simple construction, not on a doubtful ground. We wish to give the Government sufficient energy, on real republican principles, but we wish to withhold such powers as are not absolutely necessary in themselves, but are extremely dangerous. We wish to shut the door against corruption in that place where it is most dangerous—To secure against the corruption of our own Representatives. We ask such amendments as will point out what powers are reserved to the State Governments, and clearly discriminate between them, and those which are given to the General Government, so as to prevent future disputes and clashing of interests. Grant us amendments like these, and we will chearfully with our hands and hearts unite with those who advocate it, and we will do every thing we can to support and carry it into execution. But in its present form we never can accede to it. Our duty to God and

to our posterity forbids it. We acknowledge the defects of the Confederation and the necessity of a reform. We ardently wish for an Union with our sister States, on terms of security. This I am bold to declare, is the desire of most of the people. On these terms we will most cheerfully join with the warmest friends of this Constitution. On another occasion I shall point out the great dangers of this Constitution, and the amendments which are necessary. I will likewise endeavor to shew that amendments after ratification, are delusive and fallacious—perhaps utterly impracticable.

Mr. *Lee*, of *Westmoreland*, strongly urged the propriety of adhering to the resolution of the House, of debating the subject regularly. That the irregular and disorderly manner in which Gentlemen had hitherto proceeded, was unfriendly to a rational and just decision, tended to protract time unnecessarily, and interfere with the private concerns of Gentlemen.—He then proceeded—I waited some time in hopes that some Gentleman on the same side of the question would rise. I hope that I may take the liberty of making a few remarks on what fell from the Honorable Gentleman last up [George Mason]. He has endeavoured to draw our attention from the merits of the question, by jocose observations and satirical allusions. He ought to know that ridicule is not the test of truth. Does he imagine, that he that can raise the loudest laugh is the soundest reasoner? Sir, the judgments, and not the risibility of Gentlemen, are to be consulted. Had the Gentleman followed that rule which he himself proposed, he would not have shewn the letter of a private Gentleman, who, in times of difficulty, had offered his opinion respecting the mode in which it would be most expedient to raise the public funds. Does it follow that since a private individual<sup>14</sup> proposed such a scheme of taxation, that the new Government will adopt it? But the same principle has also governed the Gentleman when he mentions the expressions of another private Gentleman<sup>15</sup>—*the well born*—That our Federal Representatives are to be chosen from the higher orders of the people—from *the well born*. Is there a single expression like this in the Constitution? Every man who is entitled to vote for a member to our own State Legislature, will have a right to vote for a member of the House of Representatives in the General Government. In both cases the confidence of the people alone can procure an election. This insinuation is totally unwarrantable. Is it proper that the Constitution should be thus attacked with the opinions of every private Gentleman? I hope we shall hear no more of such groundless aspersions. Raising a laugh, Sir, will not prove the merits, nor expose the defects of this system.

The Honorable Gentleman [George Mason] abominates it, because



it does not prohibit the importation of slaves, and because it does not secure the continuance of the existing slavery! Is it not obviously inconsistent to criminate it for two contradictory reasons? I submit to the consideration of the Gentleman, whether, if it be reprehensible in the one case, it can be censurable in the other?—Mr. *Lee* then concluded by earnestly recommending to the Committee to proceed regularly.

Mr. *Grayson*.—Mr. Chairman,—I must make a few observations on this subject; and if my arguments are desultory, I hope I shall stand justified by the bad example which has been set me, and the necessity I am under of following my opponents through all their various recesses. I do not in the smallest degree blame the conduct of the Gentlemen who represented this State in the General Convention. I believe that they endeavoured to do all the good to this Commonwealth which was in their power, and that all the members who formed that Convention, did every thing within the compass of their abilities to procure the best terms for their particular States. That they did not do more for the general good of America, is perhaps a misfortune. They are entitled however to our thanks, and those of the people. Although I do not approve of the result of their deliberations, I do not criminate or suspect the principles on which they acted. I desire that what I may say may not be improperly applied. I make no allusions to any Gentlemen whatever.

I do not pretend to say that the present Confederation is not defective. Its defects have been actually experienced. But I am afraid that they cannot be removed. It has defects arising from reasons which are inseparable from the nature of such Governments, and which cannot be removed but by death. All such Governments that ever existed have uniformly produced this consequence—that particular interests have been consulted, and the general good, to which all wishes ought to be directed, has been neglected. But the particular disorders of Virginia ought not to be attributed to the Confederation. I was concerned to hear the local affairs of Virginia mentioned. If these make impressions on the minds of Gentlemen, why did not the Convention provide for removing the evils of the Government of Virginia? If I am right, the States, with respect to their internal affairs, are left precisely as before, except in a few instances. Of course, the Judiciary, should this Government be adopted, would not be improved, the State Government would be in this respect nearly the same, and the Assembly may, without judge or jury, hang as many men as they may think proper to sacrifice to the good of the public. Our Judiciary has been certainly improved in some respects since the revolution. The proceedings of

our Courts are now at least as rapid as they were under the royal Government. (Here Mr. *Grayson* mentioned a particular cause which had been 31 years on the docket.) The adoption of this Government will not meliorate our own particular State system. I beg leave to consider the circumstances of the Union antecedent to the meeting of the Convention at Philadelphia.—We have been told of phantoms and ideal dangers to lead us into measures which will, in my opinion, be the ruin of our country. If the existence of those dangers cannot be proved—if there be no apprehensions of wars, if there be no rumours of wars, it will place the subject in a different light, and plainly evince to the world, there cannot be any reason for adopting measures which we apprehend to be ruinous and destructive. When this State proposed, that the General Government should be improved, Massachusetts was just recovered from a rebellion which had brought the Republic to the brink of destruction; from a rebellion which was crushed by that Federal Government, which is now so much contemned and abhorred: A vote of that august body for 1500 men, aided by the exertions of the State, silenced all opposition, and shortly restored the public tranquility.<sup>16</sup> Massachusetts was satisfied that these internal commotions were so happily settled, and was unwilling to risk any similar distresses by theoretic experiments. Were the Eastern States willing to enter into this measure? Were they willing to accede to the proposal of Virginia? In what manner was it received? Connecticut revolted at the idea.<sup>17</sup> The Eastern States, Sir, were unwilling to recommend a meeting of a Convention. They were well aware of the dangers of revolutions and changes. Why was every effort used, and such uncommon pains taken to bring it about? This would have been unnecessary, had it been approved of by the people. Was Pennsylvania disposed for the reception of this project of reformation? No, Sir. She was even unwilling to amend her revenue laws so as to make the five per centum operative.<sup>18</sup> She was satisfied with things as they were. There was no complaint that ever I heard of from any other part of the Union, except Virginia. This being the case among ourselves, what dangers were there to be apprehended from foreign nations? It will be easily shewn that dangers from that quarter were absolutely imaginary. Was not France friendly? Unequivocally so. She was devising new regulations of commerce for our advantage. Did she harrass us with applications for her money? Is it likely that France will quarrel with us? Is it not reasonable to suppose, that she will be more desirous than ever to cling to us, after losing the Dutch Republic, her best ally? How are the Dutch? We owe them money it is true; and are they not willing that we should owe them more? Mr. Adams applied to them for a new

loan to the poor despised Confederation. They readily granted it.<sup>19</sup> The Dutch have a fellow-feeling for us. They were in the same situation with ourselves.

I believe that the money which the Dutch borrowed of Henry the 4th is not yet paid. How did they pay Queen Elizabeth's loan? At a very considerable discount. They took advantage of the weakness and necessities of James the first, and made their own terms with that contemptible Monarch.<sup>20</sup> Loans from nations are not like loans from private men. Nations lend money and grant assistance to one another from views of national interest. France was willing to pluck the fairest feather out of the British crown. This was her object in aiding us. She will not quarrel with us on pecuniary considerations. Congress considered it in this point of view, for, when a proposition was made to make it a debt of private persons, it was rejected without hesitation.<sup>21</sup> That respectable body wisely considered, that while we remained their debtors in so considerable a degree, they would not be inattentive to our interest.

With respect to Spain, she is friendly in a high degree. I wish to know by whose interposition was the treaty with Morocco made. Was it not by that of the King of Spain?<sup>22</sup> Several predatory nations disturbed us on going into the Mediterranean—the influence of Charles the third at the Barbary court, and £. 4,000, procured as good a treaty with Morocco as could be expected. But I acknowledge it is not of any consequence, since the Algerines and people of Tunis have not entered into similar measures. We have nothing to fear from Spain; and were she hostile, she could never be formidable to this country. Her strength is so scattered that she never can be dangerous to us either in peace or war.

As to Portugal, we have a treaty with her, which may be very advantageous, though it be not yet ratified.<sup>23</sup>

The domestic debt is diminished by considerable sales of western lands, to *Cutler Serjeant & Company*, to *Simms*, and to *Royal Flint & Company*.<sup>24</sup> The Board of Treasury is authorised to sell in Europe or any where else, the residue of those lands.<sup>25</sup>

An act of Congress had passed to adjust the public debts between the individual States and the United States.<sup>26</sup>

Was our trade in a despicable situation? I shall say nothing of what did not come under my own observation.—When I was in Congress,<sup>27</sup> sixteen vessels had had sea letters in the East-India trade, and two hundred vessels entered and cleared out in the French West-India Islands, in one year.

I must confess that public credit has suffered, and that our public

creditors have been ill-used. This was owing to a fault at head quarters, to Congress themselves, in not apportioning the debts on the different States, and in not selling the western lands at an earlier period. If requisitions have not been complied with, it must be owing to Congress, who might have put the unpopular debts on the back lands.<sup>28</sup> Commutation is abhorrent to New-England ideas.<sup>29</sup> Speculation is abhorrent to the Eastern States. Those inconveniencies have resulted from the bad policy of Congress.

There are certain modes of governing the people, which will succeed. There are others which will not. The idea of consolidation is abhorrent to the people of this country. How were the sentiments of the people before the meeting of the Convention at Philadelphia? They had only one object in view. Their ideas reached no farther than to give the General Government the five per centum impost, and the regulation of trade. When it was agitated in Congress, in a Committee of the whole, this was all that was asked, or was deemed necessary.<sup>30</sup> Since that period, their views have extended much farther. Horrors have been greatly magnified since the rising of the Convention. (We are now told by the Honorable Gentleman (Governor *Randolph*) that we shall have wars and rumours of wars; that every calamity is to attend us, and that we shall be ruined and disunited forever, unless we adopt this Constitution. Pennsylvania and Maryland are to fall upon us from the North, like the Goths and Vandals of old—The Algerines, whose flat sided vessels never came further than Madeira, are to fill the Chesapeake with mighty fleets, and to attack us on our front. The Indians are to invade us with numerous armies on our rear, in order to convert our cleared lands into hunting grounds—And the Carolinians from the South, mounted on alligators, I presume, are to come and destroy our corn fields and eat up our little children! These, Sir, are the mighty dangers which await us if we reject.)<sup>31</sup> Dangers which are merely imaginary, and ludicrous in the extreme! Are we to be destroyed by Maryland and Pennsylvania? What will Democratic States make war for, and how long since they have imbibed a hostile spirit?

But the generality are to attack us. Will they attack us after violating their faith in the first union? Will they not violate their faith, if they do not take us into their confederacy? Have they not agreed by the old Confederation, that the Union shall be perpetual; and that no alteration should take place without the consent of Congress and *the confirmation of the Legislatures of every State*? I cannot think that there is such a depravity in mankind, as that after violating public faith so flagrantly, they should make war upon us also, for not following their example.

The large States have divided the back lands among themselves, and have given as much as they thought proper to the generality. For the fear of disunion we are told, that we ought to take measures which we otherwise should not. Disunion is impossible. The Eastern States hold the fisheries, which are their corn fields, by a hair. They have a dispute with the British Government about their limits this moment.<sup>32</sup> Is not a General and strong Government necessary for their interest? If ever nations had any inducements to peace, the Eastern States now have. New-York and Pennsylvania anxiously look forward for the fur trade. How can they obtain it but by Union? Can the western posts be got or retained without Union? How are the little States inclined? They are not likely to disunite. Their weakness will prevent them from quarreling. Little men are seldom fond of quarrelling, among giants. Is there not a strong inducement to Union, while the British are on one side and the Spaniards on the other? Thank Heaven, we have a Carthage of our own.—But we are told, that if we do not embrace the present moment, we are lost forever. Is there no difference between productive States and carrying States? If we hold out, will not the tobacco trade enable us to make terms with the carrying States? Is there nothing in a similarity of laws, religion, language, and manners? Do not these and the intercourse, and intermarriages between the people of the different States, invite them in the strongest manner to Union?

But what would I do on the present occasion to remedy the existing defects of the present Confederation? There are two opinions prevailing in the world: The one, that mankind can only be governed by force: The other, that they are capable of freedom and a good Government. Under a supposition that mankind can govern themselves, I would recommend, that the present Confederation should be amended. Give Congress the regulation of commerce. Infuse new strength and spirit into the State Governments: For when the component parts are strong, it will give energy to the Government, although it be otherwise weak. This may be proved by the Union of Utrecht.<sup>33</sup> Apportion the public debts in such a manner as to throw the unpopular ones on the back lands. Call only for requisitions for the foreign interest, and aid them by loans. Keep on so till the American character be marked with some certain features. We are yet too young to know what we are fit for. The continual migration of people from Europe, and the settlement of new countries on our western frontiers, are strong arguments against making new experiments now in Government. When these things are removed we can with greater prospect of success devise changes. We ought to consider, as Mon-

tesquieu says, whether the construction of the Government be suitable to the genius and disposition of the people, as well as a variety of other circumstances.<sup>34</sup>

But if this position be not true, and men can only be governed by force—then be as gentle as possible. What then would I do? I would not take the British Monarchy for my model. We have not materials for such a Government in this country, although I will be bold to say, that it is one of the Governments in the world, by which liberty and property are best secured. But I would adopt the following Government. I would have a President for life, choosing his successor at the same time—A Senate for life, with the powers of the House of Lords,—And a triennial House of Representatives, with the powers of the House of Commons in England. By having such a President, we should have more independence and energy in the Executive, and not be incumbered with the expence, &c. of a Court and an hereditary Prince and family. By such a Senate we should have more stability in the laws, without having an odious hereditary Aristocracy. By the other branch we should be fully and fairly represented. If, Sir, we are to be consolidated at all, we ought to be fully represented, and governed with sufficient energy, according to numbers in both houses.

I admit that coercion is necessary in every Government in some degree, that it is manifestly wanting in our present Government, and that the want of it has ruined many nations. But I should be glad to know what great degree of coercion is in this Constitution, more than in the old Government, if the States will refuse to comply with requisitions, and they can only be compelled by means of an army? Suppose the people will not pay the taxes, is not the sword to be then employed? The difference is this, that by this Constitution the sword is employed against individuals, by the other it is employed against the States, which is more honorable. Suppose a general resistance to pay taxes in such a State as Massachusetts, will it not be precisely the same thing as non-compliance with requisitions? Will this Constitution remedy the fatal inconveniences of the clashing State interests? Will not every member that goes from Virginia be actuated by State influence? So they will also from every other State. Will the liberty and property of this country be secure under such a Government? What, Sir, is the present Constitution? A Republican Government founded on the principles of Monarchy, with the three estates. Is it like the model of Tacitus or Montesquieu? Are there checks in it, as in the British Monarchy? There is an Executive fettered in some parts, and as unlimited in others as a Roman Dictator.—A Democratic branch marked with the strong features of Aristocracy—and an Aristocratic branch with all

the impurities and imperfections of the British House of Commons, arising from the inequality of representation and want of responsibility—There will be plenty of old Sarums<sup>35</sup> if the new Constitution should be adopted. Do we love the British so well as to imitate their imperfections? We could not effect it more, than in that particular instance. Are not all defects and corruption founded on an inequality of representation and want of responsibility? How is the Executive? Contrary to the opinion of all the best writers, blended with the Legislative. *We have asked for water and they have given us a stone.* I am willing to give the Government the regulation of trade. It will be serviceable in regulating the trade among the States. But I believe that it will not be attended with the advantages generally expected.

As to direct taxation—give up this and you give up every thing, as it is the highest act of sovereignty: Surrender up this inestimable jewel, and you throw a pearl away richer than all your tribe. But it has been said by an Honorable Gentleman (Mr. *Pendleton*) as well as I recollect, that there could be no such thing as an interference between the two Legislatures, either in point of direct taxation, or in any other case whatever. An Honorable Gentleman (Mr. *Mason*) has replied, that they might interfere in the case of a poll-tax. I will go farther and say, that the case may happen in the Judiciary. Suppose a State execution and a Federal execution issued against the same man, and the State officer and Federal officer seize him at the same moment—Would they divide the man in two, as Soloman directed the child to be divided who was claimed by two women? I suppose the General Government, as being paramount, would prevail. How are two Legislatures to coincide with powers transcendent, supreme and omnipotent, for such is the definition of a Legislature? There must be an eternal interference, not only in the collection of taxes, but in the Judiciary. Was there ever such a thing in any country before? Great-Britain never went so far in the stamp act. Poyning's law—the abhorrence of the Irish, never went so far.<sup>36</sup> I never heard of two supreme co-ordinate powers in one and the same country before. I cannot conceive how it can happen. It surpasses every thing that I have read of concerning other Governments, or that I can conceive by the utmost exertion of my faculties.

But, Sir, as a cure for every thing, the Democratic branch is elected by the people. What security is there in that, as has already been demanded? Their number is too small. Is not a small number more easy to be corrupted than a large one? Were not the Tribunes at Rome the choice of the people? Were not the Decemviri chosen by them? Was not Cæsar himself the choice of the people? Did this secure them from oppression and slavery? Did this render these agents so chosen

by the people upright? If 560 members are corrupted in the British House of Commons, will it not be easier to corrupt 91 members of the new constitution? But the British House of Commons are corrupted from the same cause that our Representatives will be—I mean, *from the old Sarums* among them, from the inequality of the representation. How many are legislating in this country yearly? It is thought necessary to have 1500 Representatives for the great purposes of legislation throughout the Union, exclusive of 160 Senators, which forms a proportion of about one for every 1500 persons. By the present Constitution, these extensive powers are to be exercised by the small number of 91 persons, a proportion almost 20 times less than the other. It must be degrading indeed to think that so small a number should be equal to so many! Such a preferential distinction must presuppose the happiest selection. They must have something divine in their composition to merit such a pre-eminence. But my greatest objection is, that it will in its operation be found unequal, grievous, and oppressive. If it have any efficacy at all, it must be by a faction—a faction of one part of the Union against the other. I think that it has a great natural imbecility within itself, too weak for a consolidated, and too strong for a confederate Government. But if it be called into action by a combination of seven States, it will be terrible indeed.—We need be at no loss to determine how this combination will be formed. There is a great difference of circumstances between the States. The interest of the carrying States is strikingly different from that of the productive States. I mean not to give offence to any part of America, but mankind are governed by interest. The carrying States will assuredly unite and our situation will be then wretched indeed. Our commodities will be transported on their own terms, and every measure will have for its object their particular interest. Let ill-fated Ireland be ever present to our view. We ought to be wise enough to guard against the abuse of such a Government. Republics, in fact, oppress more than Monarchies. If we advert to the page of history, we will find this disposition too often manifested in Republican Governments. The Romans in ancient, and the Dutch in modern times, oppressed their provinces in a remarkable degree. I hope that my fears are groundless, but I believe it as I do my creed, that this Government will operate as a faction of seven States to oppress the rest of the Union. But it may be said, that we are represented and cannot therefore be injured—A poor representation it will be! The British would have been glad to take America into the Union like the Scotch, by giving us a small representation. The Irish might be indulged with the same favor by asking for it. Would that lessen our misfortunes? A small



representation gives a pretence to injure and destroy. But, Sir, the Scotch Union is introduced by an Honorable Gentleman,<sup>37</sup> as an argument in favor of adoption. Would he wish his country to be on the same foundation as Scotland? They have but 45 members in the House of Commons, and 16 in the House of Lords.—These go up regularly in order to be bribed. The smallness of their number puts it out of their power to carry any measure. And this unhappy nation exhibits the only instance perhaps in the world where corruption becomes a virtue. I devoutly pray, that this description of Scotland may not be picturesque of the Southern States in three years from this time. The Committee being tired as well as myself, I will take another time to give my opinion more fully on this great and important subject.

Mr. *Monro*, seconded by Mr. *Henry*, moved that the Committee should rise, that Mr. *Grayson* might have an opportunity of continuing his argument next day.—Mr. *Madison* insisted on going through the business regularly according to the resolution of the House.

The Committee then rose—And on motion, *Resolved*, That this Convention will, to-morrow, again resolve itself into a Committee of the whole Convention, to take into farther consideration, the proposed Constitution of Government.

And then the Convention adjourned until to-morrow morning, ten o'clock.

1. James Madison's notes for this speech are printed immediately after the debates for this day.

2. See Convention Debates, 7 June (RCS:Va., 1028–35). Due to illness, Madison did not attend the Convention on Monday, 9 June, and he was probably still recovering when he attended on the 10th.

3. The principle "that free Ships shall also give a freedom to Goods" was contained in Article 25 of the Treaty of Amity and Commerce between the United States and France, signed at Paris on 6 February 1778. (Article 25 became Article 23 after Articles 11 and 12 were suppressed by a signed declaration at Versailles on 1 September 1778.) During the American Revolution, however, Great Britain seized the goods of Americans and their allies that were being carried by the vessels of neutrals. Spain, one of America's allies, did the same so that neutral shipping was not safe. Consequently, in July 1780 neutral Russia initiated and entered into an agreement with the neutral nations of Denmark and Norway which stated "That all vessels may navigate freely from port to port and along the coasts of the nations at war" and "That the effects belonging to subjects of the said Powers at war shall be free on board neutral vessels, with the exception of contraband merchandise." Russia also concluded treaties with Sweden (August 1780), Prussia (May 1781), and Portugal (July 1782). One or more of these treaties was acceded to by the Netherlands in December 1780, Austria in October 1781, and Sicily in February 1783. The union of these neutral nations was called the League of Armed Neutrality.

4. Since the Articles of Confederation were not ratified until March 1781, Congress had little constitutional or fiscal limit on its power before that date. Between 1775 and 1779, Congress financed the war by issuing more than \$200,000,000 in paper money. By 1779, the value of Continental currency had depreciated so much that Congress

decided not to issue any more. To finance the war, Congress became more dependent upon requisitions on the states. The requisition system was unsuccessful because the states did not pay their full quotas and because Congress, after the Articles were ratified, lacked the power to force them to pay.

5. See Convention Debates, 4 June (RCS:Va., 922-29).

6. In 1782 Robert Morris, the Confederation Superintendent of Finance, proposed to Congress a land tax of one dollar per hundred acres, a poll tax of one dollar on all freemen and male slaves between ages 16 and 60, and an excise tax "of one eighth of [a] Dollar, per Gallon, on all distilled Spirituous Liquors" (to the President of Congress, 29 July, Ferguson, *Morris*, VI, 65; and JCC, XXII, 429-46).

7. On 1 January 1788 the Virginia legislature, of which Mason was a member, repealed the taxes on free adult males because they were "found very burthensome, and the situation of the public revenues will justify a remission of the said taxes" (Hening, XII, 431).

8. Mason probably refers to John Adams's *Defence of the Constitutions*, which was criticized by some because it praised the British Constitution, supported a powerful executive, diminished the role of the people, and attached too great a prominence to the rich and well born (CC:16). For unfavorable reactions by other Virginians to Adams's *Defence*, see RCS:Va., 476, 477n-78n; and CC:16-E.

9. A reference to Aesop's fable: "The Cat and Aphrodite."

10. Mason refers to the compact agreed upon at the Mount Vernon Conference in 1785.

11. For the actions of the Virginia legislature on the claims of the Indiana Company, of which Mason was a longtime opponent, see RCS:Va., 490, note 7, and James Madison to Edmund Randolph, 10 April, note 4 (III above).

12. See the speech of Francis Corbin, Convention Debates, 7 June (RCS:Va., 1010).

13. The Act of Union (1707) permitted free trade between Scotland and England (including its possessions), and Scotland retained its common and statute law and court system. Moreover, the doctrines and disciplines of the Presbyterian Church that had been established by law were to be inviolably preserved. This last rule was "a fundamental and essential Condition of . . . Union."

14. See note 6 (above) for "a private individual" (Robert Morris).

15. See note 8 (above) for "another private Gentleman" (John Adams).

16. Grayson refers to Shays's Rebellion in 1786 and 1787. In October 1786 Congress authorized the raising of more than 1,300 troops, ostensibly to protect settlers against "the hostile intentions of the Indians in the Western country." Before the troops were raised, the rebellion was suppressed in late January and early February 1787.

17. Grayson, a former delegate to Congress, refers to Connecticut's opposition in Congress to the resolution of 21 February 1787 calling the Constitutional Convention (CDR, 189).

18. On 18 April 1783 Congress, in an effort to obtain an independent revenue, submitted a complete economic program to the states for their consideration. This program included a request that the states grant Congress the power to levy a five percent import duty for twenty-five years and another request that the states pay Congress supplementary funds amounting to \$1,500,000 annually for the same period of time (CDR, 146-48). Neither method of raising revenue was to go into effect until all of the states had acceded to both.

In September 1783 the Pennsylvania legislature granted Congress both the impost and the state's proportion of the supplementary funds, with the proviso that Pennsylvania's approval would not take effect until all states granted both the impost and the supplementary funds. On 15 February 1786, a committee of Congress reported that nine states had granted the impost, but that only three had agreed to the supplementary funds, a fact which clearly endangered the impost. Consequently, Congress uncoupled

the impost and the supplementary funds. By August, all of the states had granted Congress the power to levy the impost, but only five had voted it the supplementary funds. Congress rejected New York's conditional approval of the impost and asked Pennsylvania and Delaware to separate their approval of the impost from the supplementary funds.

Therefore, in August Congress appointed Rufus King and James Monroe to meet with the Pennsylvania legislature to ask it to repeal its proviso. King and Monroe went to Philadelphia in September and presented their case to the legislature which, "so near the period of its dissolution," put off consideration of the request of Congress until the next session.

The legislature's action probably did not surprise Monroe, who, upon arriving in Philadelphia, learned that both political parties in Pennsylvania refused to separate the impost from the supplementary funds. As late as April 1787, Virginia congressman William Grayson predicted that Pennsylvania would "never separate the one from the other" (CC: Vol. 1, pp. 20-22; JCC, XXIV, 526-27; XXX, 70-76, 439-44; XXXI, 511-14, 515, 687-88; PCC, Item 69, Pennsylvania State Papers, 1775-91, Vol. 2, f. 557; and Monroe to James Madison, 12 September 1786, and Grayson to William Short, 16 April 1787, LMCC, VIII, 464, 581).

19. See Convention Debates, 10 June, note 12 (above).

20. During the Dutch revolt against Spain, Elizabeth I loaned money to the United Provinces. In 1598, the provinces signed a treaty of alliance with England, in which they acknowledged a debt of £800,000 and, as security, temporarily ceded to England the towns of Flushing, Brill, and Rammekens. In 1616 James I, Elizabeth's successor, accepted £215,000 as full payment for this debt and relinquished control of the three towns (Charles Wilson, *Queen Elizabeth and the Revolt of the Netherlands* [Berkeley, 1970], 119-20; and Godfrey Davies, *The Early Stuarts, 1603-1660* [Oxford, 1937], 47, 50).

21. On 2 October 1787 Congress considered a report from the Confederation Board of Treasury, concerning information received from the American minister to France (Thomas Jefferson) that a proposal had been made by a company of Dutch merchants to the French Minister of Finances to purchase the debt that the United States owed to France. On the Board's recommendation, Congress instructed Jefferson to oppose the transfer of the debt "to any [foreign] State or company of Individuals who may be disposed to purchase the same" (JCC, XXXIII, 589-93).

22. In June and July 1786, the United States entered into a treaty of peace and friendship with the Emperor of Morocco, some of whose subjects had been preying upon American shipping. Congress ratified the treaty on 18 July 1787, and five days later it voted to thank the King of Spain for his assistance in the negotiations (JCC, XXXII, 355-64; XXXIII, 394-96).

23. On 25 April 1786, Thomas Jefferson signed a treaty of amity and commerce with the Portuguese minister in London. The Portuguese government found portions of the treaty objectionable and refused to ratify it. The Portuguese invited the United States to send a minister to Lisbon, part of whose duties would be to negotiate a treaty. In 1791 the United States and Portugal exchanged ministers, but no treaty was concluded (Boyd, IX, 410-33, 448-49; XII, 146-47).

24. On 27 October 1787, the Ohio Company bought 1,500,000 acres of land in the Northwest Territory. The contract was negotiated by Manasseh Cutler, one of the company's directors, and Winthrop Sargent, the company's secretary. In August 1787 John Cleves Symmes, on behalf of Symmes Associates, petitioned Congress to purchase land in the Northwest Territory and in October 1788 Congress completed a contract with the Associates for about 1,000,000 acres. In October 1787 Royal Flint, Joseph Parker, and associates inquired about the purchase of a large tract of land, but no contract was ever executed by Congress.

25. On 1 October 1787, John Kean of South Carolina moved to offer ten million acres of western land for sale in Europe. Congress referred the motion to the Board of Treasury for a report (JCC, XXXIII, 588). No record of any report has been found.

On 10 November William Grayson, a delegate to Congress, wrote: "I heartily wish the rage for *terra firma* may continue here, and that it may also extend itself to Europe. I have often thought something might be done in that quarter, and have frequently though in vain suggested the idea to that *caput mortuum* of vitriol Congress" (to William Short, LMCC, VIII, 679). Grayson had told James Monroe on 22 October that Congress now looked "upon the Western country in its true light, *i e*, as a most valuable fund for the total extinction of the domestic debt" (*ibid.*, 659). Edward Carrington, another Virginia delegate, had the same idea about selling lands in Europe (Carrington to Thomas Jefferson, 23 October, *ibid.*, 661).

26. On 7 May 1787, Congress passed "An Ordinance for settling the Accounts between the United States and Individual States" (JCC, XXXII, 258–66).

27. Grayson attended Congress regularly from 11 March 1785 to 29 October 1787, being away for a long time only between 12 September and 20 November 1786.

28. Soon after Congress adopted the Land Ordinance of 1785 (20 May 1785), Grayson reported that the payment of the public debt through the sale of western lands "seems to be an object which every one [in Congress] has very much at heart" (to William Short, 15 June, LMCC, VIII, 141. For the ordinance, see CDR, 156–63.).

29. Commutation refers to an action taken by Congress in 1783 respecting the pensions of Continental Army officers. In 1780 Congress had guaranteed pensions of half-pay for life, but on 22 March 1783 it passed a resolution commuting the pensions to five years' full pay. The principal opposition to the concept of army pensions came from New England (JCC, XXIV, 145–48, 149–51, 202–3, 207–10).

30. Grayson apparently refers to the debate in Congress on 13 and 14 July 1785 over an amendment giving Congress the power to regulate commerce (CDR, 154–56; and CC: Vol. 1, 26–27).

31. When William Grayson arrived to take his seat in the U.S. Senate in May 1789, James Madison, a member of the U.S. House of Representatives, wrote to a friend that "We [Madison and Grayson] have just been together, laughing over a paragraph in one of his speeches in our Convention just come to hand in the 2d vol. of the debates. That you may judge how far there was room for it, I will transcribe a specimen." Whereupon, Madison quoted the text in angle brackets (to Eliza House Trist, 21 May, Rutland, *Madison*, XII, 176).

32. The dispute "about their limits" refers to the boundary between Maine and New Brunswick, Canada, which had not been clearly described in the Treaty of Paris of 1783. On 13 October 1785 Congress, at the request of the delegates from Massachusetts (which exercised jurisdiction over Maine), instructed John Adams, the American minister in London, to negotiate a settlement of this dispute (JCC, XXIX, 828–29). Adams had no success, and the disagreement remained unresolved until 1842.

33. For the Union of Utrecht, see "A Native of Virginia," 2 April, note 6 (III above).

34. See *Spirit of Laws*, I, Book XIX, 433–68.

35. Old Sarum was the most notorious of the so-called "rotten boroughs." Only seven votes were cast at election time.

36. In 1495 the Irish Parliament passed Poyning's Law in which it agreed to make all statutes adopted by the English Parliament applicable in Ireland. The Irish Parliament also agreed to meet only when the King of England's deputy and his council in Ireland submitted to the King a list of bills that the Irish Parliament intended to adopt and when the King in Council authorized a parliament to pass these bills.

37. See Edmund Randolph's speech, Convention Debates, 7 June (RCS:Va., 1023).

## James Madison: Notes on Direct Taxation, 11 June<sup>1</sup>

direct taxation

necessary—practicable—safe—œconomical.

I. necessary.

1. for punctuality—credit—suppose war & most to [be] feared &c—free ships free goods.

2. Conditl. taxn. produce failure from
- 3 distrust of concurrent exertions amg. Sts who will deliberate
4. Some Sts less in danger & less willing to exert.
5. Contests between Congs & Sts.
- 6 effect of being punishment & St: on side of people.  
Represents. of particular oppose 1st. in Congs. then elsewhere.
7. case of partial payments within time.
8. prevent whole burden on imports & S. Sts.
9. imports not eno'—now—& decrease *in war—& manufactures.*
10. Secure responsibility—when not to fix sum only—but find means—

## II. practicable

1. 10 or 15 men eno' for this State
2. aid of State laws—
3. increase of mutual knowledge
4. land—poll—property
- 5 uniformity not essential—Engd. & Scotd—local customs.
6. concurrent collections—as both act for people.

## III. Safe

- 1 to public liberty—Reps. of large distrcts. as London &c.
2. comparative dependence & influence of Genl & St: Govts—
3. No member of St: Govt. elected by Genl. Govt.
4. Presidt. elected under influence of St: Legislre.—
5. Senate appd. by St: Legislres—  
Col: Monroes idea & inconsistency here—
6. H. of Reps. attached to Sts: more yan. Senate—
7. people of Sts. attachd. to St: Govts.—
8. compare no. of appointmts.
9. compare powers—
10. powers of Congs. same only as of Confedn. substantiated.—case of Congs. [Issuing?] paper money.

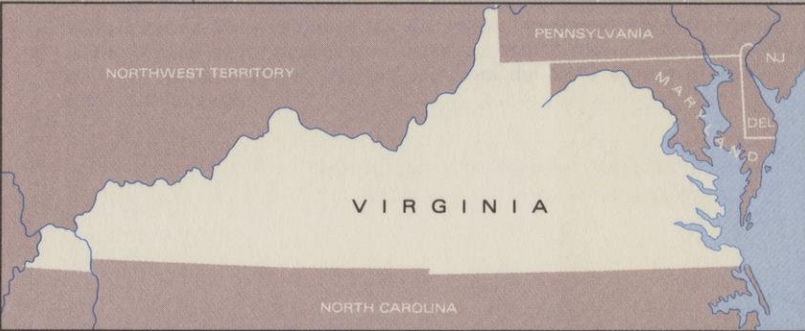
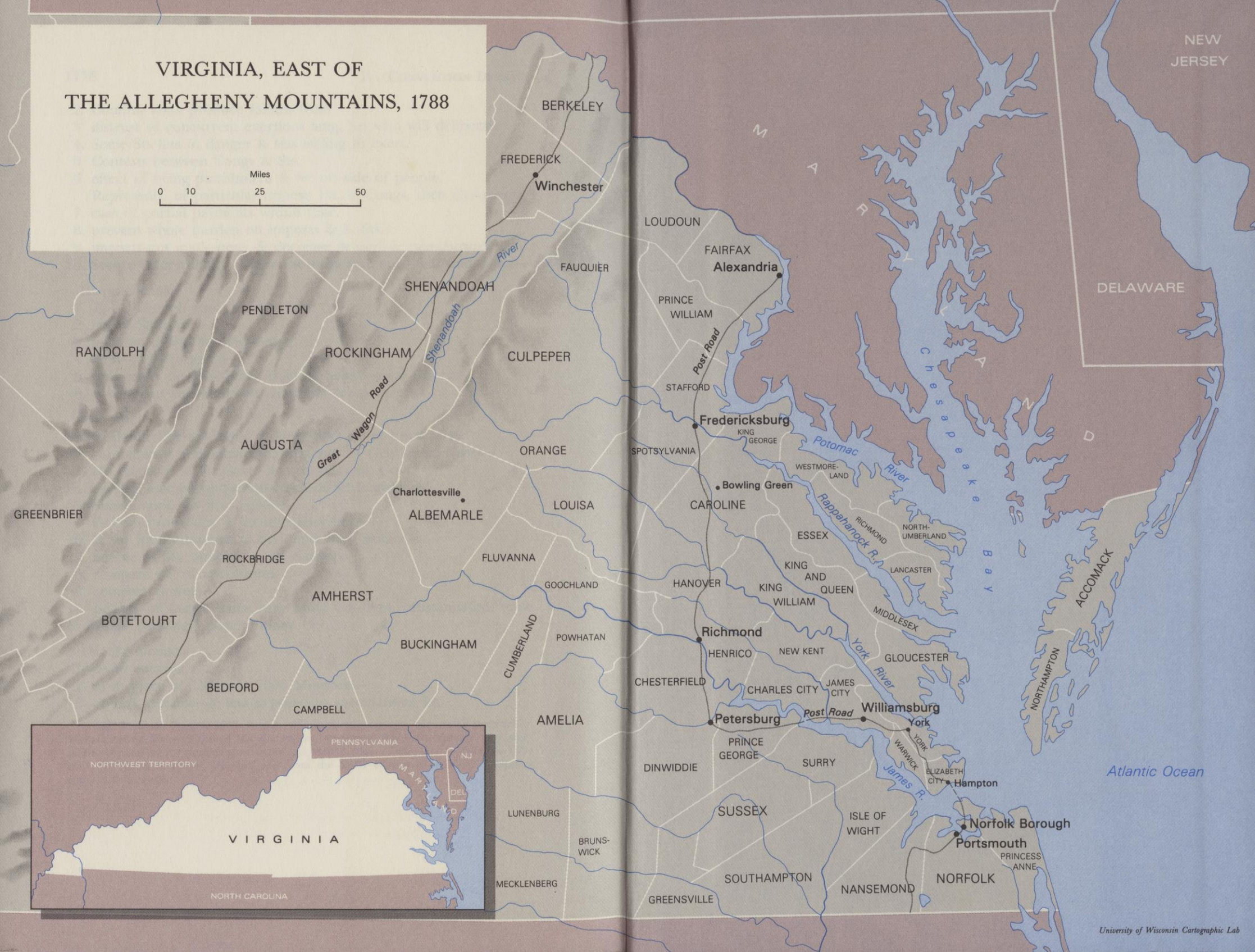
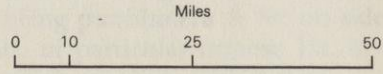
## IV. Economical

- 1—as to customs
2. as in place of 1500, or 2000 Members—
- 3—as less mutable—& less exposed to speculations &c.

1. MS, Madison Papers, DLC. In the mid-nineteenth century, Madison's biographer, William Cabell Rives, docketed this document: "~~argument~~ Notes for speech on power/ of Direct taxation in/Virginia Convention on/the 11 June 1788—/See Debates p. 180–90." The page numbers (180–90) are from the 1805 edition of David Robertson's convention debates.



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