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THE DOCUMENTARY HISTORY OF THE
RATIFICATION OF THE CONSTITUTION

Volume XXII

Ratification of the Constitution
by the States

NEW YORK

[4]

Editors

JOHN P. KAMINSKI
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WE, 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.

Secl. 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.

Secl. 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-

RATIFICATION OF THE CONSTITUTION BY THE STATES

Volumes four and five on New York contain the record of the New York Convention, which met in Poughkeepsie from 17 June to 26 July 1788. Sixty-five delegates were elected, forty-six of them Antifederalists. Many were prominent politicians and officeholders. The fourth volume has the Convention's proceedings and debates through 12 July, while the fifth covers the remainder, plus general commentaries on the Convention, post-Convention material, and a cumulative index.

The delegates agreed to debate the Constitution in a committee of the whole clause-by-clause and not to vote on any part of the Constitution before the whole had been considered. For the first two weeks, Antifederalists—determined not to ratify the Constitution without previous amendments—proposed amendments that Federalists disputed. This procedure pleased Federalists because it delayed a final vote, which they did not want to take place until either New Hampshire or Virginia became the ninth state to ratify. Nine states were needed to put the Constitution into effect among the ratifying states.

On 24 June news arrived that New Hampshire had ratified, but this had little effect on Antifederalists. One of them wrote that “we stand firm we have as yet lost no ground....there is not the most distant fear of a division among ourselves....I observe no change in the countenance, the opinion or the resolution of any.” Federalists, however, were heartened and were further buoyed when the delegates learned on 2 July that Virginia had ratified with recommendatory amendments, which, after a while, precipitated disunity among Antifederalists.

As Antifederalists continued to propose amendments, Federalists changed their strategy and ceased to debate. On 3 July Nathaniel Lawrence reported that previously Federalists had “disputed every inch of ground but to day they have quietly suffered us to propose our amendments without a word in opposition to them.” Instead of challenging the amendments, Federalists sought a form of ratification that a majority of the Convention would accept but that would not include previous amendments.

On 7 July the Convention completed its clause-by-clause consideration of the Constitution, and John Lansing submitted a bill of rights “to be prefixed to the constitution.” The Convention did no business for two days as Antifederalists caucused to devise a strategy. John Jay and Alexander Hamilton sensed that the Antifederalist “Party begins to divide in their opinions” and this “affords some ground of hope.”

Some Antifederalists favored ratification with previous or conditional amendments; others

(continued on back endflap)

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GORDON B. BALDWIN

&

E. DAVID CRONON

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In addition to being our publisher, the Wisconsin Historical Society is our primary research library. The Society's staff continues its invaluable and splendid support. The staffs of the reference, circulation, catalog, interlibrary loan, rare books, and acquisitions departments of the Memorial and Law libraries of the University of Wisconsin-Madison also continue to assist us.

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This volume is dedicated to two great citizens of the University of Wisconsin-Madison who passed away in 2006. E. David Cronon served as the chair of the History Department and as dean of the College of Letters and Science. In the latter capacity, on several occasions he provided us with support to hire graduate students and, on occasion, to provide matching money for our NEH grants. He also assisted in the creation of The Center for the Study of the American Constitution. Gordon B. Baldwin taught Constitutional Law at Wisconsin for more than four decades. Most of the lawyers practicing in Wisconsin today were his students. As a scholar of the Constitution, he appreciated the value of our work, he actively participated in our programs, and he was a generous donor to the Center. Both men served the larger purpose of assuring that the University of Wisconsin-Madison will always remain a place of learning, tolerance, and civility.

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

Internet Availability

The four volumes on Massachusetts ratification (volumes IV–VII) and its supplemental documents can be found on the Web site of the Wisconsin Historical Society at www.wisconsinhistory.org/ratification. These volumes, and all other volumes, including the New York volumes, will be found at the Web site of “Rotunda: American Founding Era Collection,” maintained by the University of Virginia Press at <http://rotunda.upress.virginia.edu>.

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

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

Ratification of the Constitution by the States (Vols. II–XII, XIX–XXV).

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

tion of convention delegates, (5) the proceedings of the convention, and (6) post-convention documents.

Supplements to Ratification of the Constitution by the States.

The supplemental documents for all Massachusetts, New York, and all future volumes are no longer placed on microfiche, but can be found on the Wisconsin Historical Society's Web site (Massachusetts volumes) and on "Rotunda: American Founding Era Collection," maintained by the University of Virginia Press at <http://rotunda.upress.virginia.edu>.

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

The types of documents in the supplements are:

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

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

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

(4) images of petitions with the names of signers,

(5) images of manuscripts such as notes of debates, and

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

Commentaries on the Constitution: Public and Private (Vols. XIII–XVIII).

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

The Bill of Rights.

The public and private debate on the Constitution continued in several states after ratification. It was centered on the issue of whether there should be amendments to the Constitution and the manner in which amendments should be proposed—by a second constitutional convention or by the new U.S. Congress. A bill of rights was proposed in the U.S. Congress on 8 June 1789. Twelve amendments were adopted on 25 September and were sent to the states on 2 October. These volumes will contain the documents related to the public and private debate over amendments, to the proposal of amendments by Congress, and to the ratification of the Bill of Rights by the states.

Editorial Procedures

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

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

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

Many documents, particularly letters, are excerpted when they contain material that is not relevant to ratification. Whenever an excerpt is printed in this edition and a longer excerpt or the entire document appears elsewhere in this edition or in other editions, this is noted. “Editors’ Notes” have been used frequently to discuss important events as well as out-of-state newspaper essays or pamphlets that circulated in New York but are printed elsewhere in the edition.

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–
 7 January 1788 Massachusetts elects delegates to state convention.
 20 November–
 15 December Pennsylvania Convention.
 26 November Delaware elects delegates to state convention.
 27 November–
 1 December Maryland calls state convention.
 27 November–
 1 December New Jersey elects delegates to state convention.
 3–7 December Delaware Convention.
 4–5 December Georgia elects delegates to state convention.
 6 December North Carolina calls state convention.
 7 December Delaware Convention ratifies Constitution, 30 to 0.
 11–20 December New Jersey Convention.
 12 December Pennsylvania Convention ratifies Constitution, 46 to 23.
 14 December New Hampshire calls state convention.
 18 December New Jersey Convention ratifies Constitution, 38 to 0.
 25 December–
 5 January 1788 Georgia Convention.
 31 December Georgia Convention ratifies Constitution, 26 to 0.
 31 December–
 12 February 1788 New Hampshire elects delegates to state convention.
- 1788**
- 3–9 January Connecticut Convention.
 9 January Connecticut Convention ratifies Constitution, 128 to 40.
 9 January–7 February Massachusetts Convention.
 19 January South Carolina calls state convention.
 1 February New York calls state convention.
 6 February Massachusetts Convention ratifies Constitution, 187 to 168,
 and proposes amendments.
 13–22 February New Hampshire Convention: first session.
 1 March Rhode Island calls statewide referendum on Constitution.
 3–27 March Virginia elects delegates to state convention.
 24 March Rhode Island referendum: voters reject Constitution, 2,711
 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
JANUARY	FEBRUARY	MARCH	APRIL
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
MAY	JUNE	JULY	AUGUST
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
SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER
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
JANUARY	FEBRUARY	MARCH	APRIL
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	
MAY	JUNE	JULY	AUGUST
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
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SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER
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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

FC	File Copy
MS	Manuscript
RC	Recipient's Copy

Manuscript Depositories

CtY	Yale University
DLC	Library of Congress
DNA	National Archives
N	New York State Library
NHi	New-York Historical Society
NHyF	Franklin D. Roosevelt Presidential Library
NKiSH	Senate House State Historical Site Library, Kingston
NN	New York Public Library
NNC-RB	Columbia University, Rare Book and Manuscript Library

Short Titles

Adams, <i>Defence</i>	John Adams, <i>A Defence of the Constitutions of Government of the United States . . .</i> (3 vols., London, 1787–1788).
Childs, <i>Debates</i>	Francis Childs, ed. <i>The Debates and Proceedings of the Convention of the State of New-York, Assembled at Poughkeepsie, on the 17th June, 1788 . . .</i> (New York, 1788).
<i>Convention Journal</i>	<i>Journal of the Convention of the State of New-York; Held at Poughkeepsie, in Dutchess County, the 17th of June, 1788</i> (Poughkeepsie, 1788).
DHFFE	Merrill Jensen, Robert A. Becker, and Gordon DenBoer, eds., <i>The Documentary History of the First Federal Elections, 1788–1790</i> (4 vols., Madison, Wis., 1976–1989).

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- JCC Worthington C. Ford et al., eds., *Journals of the Continental Congress, 1774–1789 . . .* (34 vols., Washington, D.C., 1904–1937).
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- OED *Oxford English Dictionary*.
- PCC Papers of the Continental Congress, 1774–1789 (Record Group 360, National Archives).
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**Cross-references to Volumes of
*The Documentary History of the Ratification of the Constitution***

- CC References to *Commentaries on the Constitution* are cited as “CC” followed by the number of the document. For example: “CC:25.”
- CDR References to the first volume, titled *Constitutional Documents and Records, 1776–1787*, are cited as “CDR” followed by the page number. For example: “CDR, 325.”
- RCS References to the series of volumes titled, *Ratification of the Constitution by the States*, are cited as “RCS” followed by the abbreviation of the state and the page number. For example: “RCS:N.Y., 325.”
- Mfm References to the microfiche supplements to the “RCS” volumes are cited as “Mfm” followed by the abbreviation of the state and the number of the document. For example: “Mfm:N.Y. 25.” No microfiche supplement will be published for RCS:N.Y. All Mfm:N.Y. documents will be found on “Rotunda: American Founding Era Collection,” maintained by the University of Virginia Press at <http://rotunda.upress.virginia.edu>.

New York Chronology, 1777–1790

1777

- April 20 State constitution adopted
June George Clinton elected first governor

1778

- February 6 Legislature adopts Articles of Confederation

1780

- September 3 Alexander Hamilton calls for national convention
September 7 Governor Clinton addresses legislature asking for more power for Congress
September 26 Legislature appoints commissioners to Hartford Convention
October 10 Legislature instructs delegates to Congress and Hartford Convention commissioners to give more power to Congress
November 8–22 Hartford Convention

1781

- March 19 Legislature adopts Impost of 1781

1782

- July 21 Legislature calls for national convention and increased powers for Congress
November 30 Preliminary Peace Treaty signed

1783

- March 15 Legislature repeals its adoption of Impost of 1781
April 18 Congress proposes Impost of 1783
November 25 British evacuate New York City

1784

- March 22 State impost enacted
March 31 Legislature refuses to compensate Loyalists for confiscated estates
June 3 Massachusetts petitions Congress claiming ownership of western New York
August 27 *Rutgers v. Waddington*
November 18 Legislature approves state impost

1785

- April 4 Legislature approves 30 April 1784 grant of temporary power to Congress to regulate commerce
April 9 Legislature adopts amendment to Articles of Confederation changing method of apportioning expenses of government
April 14 Senate defeats Impost of 1783

1786

February 15	Congress asks New York to reconsider Impost of 1783
March 14	Legislature receives Virginia's call of Annapolis Convention
March 17	Legislature approves appointment of commissioners to Annapolis Convention
April 18	Paper money act becomes law
April 20	Assembly appoints commissioners to Annapolis Convention
May 4	Legislature conditionally adopts Impost of 1783
May 5	Senate agrees with appointment of commissioners to Annapolis Convention
August 11	Congress requests New York to reconsider its approval of Impost of 1783
August 23	Congress again requests New York to reconsider its approval of Impost of 1783
September 11–14	Annapolis Convention
December 16	Hartford agreement between New York and Massachusetts over land in western New York

1787

January 13	Legislature receives Annapolis Convention report
January 26	Legislature adopts state bill of rights
February 15	Assembly refuses to alter its approval of Impost of 1783
February 20	Legislature instructs delegates to Congress to move for appointment of a constitutional convention
February 21	Congress rejects New York's call for a convention and accepts amended motion by Massachusetts for a convention
February 23	Legislature receives congressional resolution of 21 February calling Constitutional Convention
February 28	Legislature authorizes election of delegates to Constitutional Convention
March 6	Legislature elects three delegates (Alexander Hamilton, John Lansing, Jr., and Robert Yates) to Constitutional Convention
April 18	Senate rejects Alexander Hamilton's motion for appointment of two additional delegates to Constitutional Convention
May 25	Robert Yates and Alexander Hamilton first attend Constitutional Convention
June 2	John Lansing, Jr., first attends Constitutional Convention
June 16	Lansing's speech in Constitutional Convention
June 18	Hamilton's "plan" submitted to Constitutional Convention
July 10	Yates and Lansing leave Constitutional Convention
July 21	Hamilton publicly attacks Governor Clinton for his opposition to Constitutional Convention
September 3	Hamilton, who had left in late June, returns to Constitutional Convention
September 17	Constitutional Convention signs Constitution with Hamilton signing for New York
September 21	Constitution first printed in New York (<i>Daily Advertiser</i> and <i>New York Packet</i>)

September 27	Cato series first printed
October 18	Brutus series first printed
October 27	Publius, <i>The Federalist</i> , first printed
November 1	Cincinnatus series first printed
November 2	Americanus series first printed
November c. 8	Federal Farmer pamphlet first printed
November 19	<i>New York Journal</i> becomes a daily
November 21	A Countryman (Hugh Hughes) series first printed
December 6	A Countryman (De Witt Clinton) series first printed
December 11	Examiner series first printed
December 21	Yates and Lansing write letter to Governor Clinton explaining why they left Constitutional Convention early

1788

January 11	Governor Clinton transmits Constitution and Yates-Lansing letter to legislature
January 14	Yates-Lansing letter first printed
January 31	Assembly adopts resolution calling state convention
February 1	Senate concurs with Assembly's resolution calling state convention
February 7	Constitution burned at Montgomery, Ulster County
March 22	Volume I of Publius, <i>The Federalist</i> , printed (36 essays)
April 13–14	Doctors' riots in New York City
April 15	John Jay's A Citizen of New-York pamphlet printed
April 17	A Plebeian pamphlet printed
April 29–May 3	Elections for state convention
May c. 18	Federal Republican Committee formed in New York City
May 27	Ballot boxes opened and votes counted for election to state convention
May 28	Volume II of Publius, <i>The Federalist</i> , printed (49 essays)
June 17	State Convention convenes in Poughkeepsie
June 17	George Clinton elected president of Convention
June 18	Convention reads Constitution
June 19	Henry Outhoodt elected chairman committee of the whole
June 24	News of New Hampshire's ratification of Constitution arrives in Poughkeepsie
July 2	News of Virginia's ratification of Constitution arrives in Poughkeepsie
July 7	Convention finishes discussion of Constitution, and John Lansing, Jr., presents a bill of rights to be prefixed to Constitution
July 10	Lansing presents plan of ratification with conditional amendments
July 11	John Jay proposes unconditional ratification
July 15	Melancton Smith proposes limited ratification of Constitution
July 16	John Sloss Hobart's motion to adjourn defeated
July 19	Lansing proposes conditional ratification with amendments
July 23	New York City Federal Procession
July 23	Samuel Jones's amendment to ratify "in full confidence" that amendments would be adopted

- July 23 Convention's committee of the whole votes to ratify
Constitution without conditional amendments 31 to 29
- July 24 Lansing proposes limited-term ratification
- July 25 Convention rejects Lansing's motion for limited-term
ratification
- July 26 Convention adopts Constitution 30 to 27 with proposed
amendments
- July 26 Circular Letter to states approved
- July 27 Sacking of Thomas Greenleaf's print shop
- October 30 Federal Republican Committee reorganizes in New York City
to work for a second constitutional convention

1789

- February 7 Legislature resolves to ask Congress to call a convention to
draft amendments to the Constitution

1790

- January 13 Legislature receives proposed twelve amendments to
Constitution
- February 26 Legislature adopts eleven of twelve proposed amendments
to Constitution

Officers of the State of New York 1787–1788

Governor

George Clinton

Lieutenant Governor

Pierre Van Cortlandt

Chancellor

Robert R. Livingston

Justices of the Supreme Court

Richard Morris, Chief Justice

John Sloss Hobart

Robert Yates

Clerk of the Supreme Court

John McKesson

Judge of the Court of Admiralty

Lewis Graham

Secretary of State

Lewis A. Scott

Attorney General

Egbert Benson

Richard Varick

(appointed 14 May 1788)

Treasurer

Gerard Bancker

Auditor-General

Peter T. Curtenius

Surveyor General

Simeon DeWitt

Mayor of New York City

James Duane

Mayor of Albany

John Lansing, Jr.

Mayor of Hudson

Seth Jenkins

Council of Appointment

George Clinton

Appointed 18 January 1787

William Floyd

John Hathorn

Ebenezer Russell

Peter Schuyler

Appointed 18 January 1788

Anthony Hoffman

David Hopkins

Philip Schuyler

John Vanderbilt

Council of Revision

George Clinton

Robert R. Livingston

Richard Morris

John Sloss Hobart

Robert Yates

Annapolis Convention Delegates

Egbert Benson*

Alexander Hamilton*

Robert C. Livingston

Robert R. Livingston

James Duane

Leonard Gansevoort

*Attended

Delegates to Congress

Elected 26 January 1787

Abraham Yates, Jr.

John Lansing, Jr.

Melancton Smith

John Haring

Egbert Benson

Elected 22 January 1788

Abraham Yates, Jr.

Ezra L'Hommedieu

Egbert Benson

Leonard Gansevoort

Alexander Hamilton

Constitutional Convention

Alexander Hamilton*

Robert Yates**

John Lansing, Jr.**

*Signed Constitution

**Left Convention on 10 July 1787

Confederation Secretary for Foreign Affairs

John Jay

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

NEW YORK

[4]

V.
THE NEW YORK CONVENTION
17 June–26 July 1788

Introduction

The Place of Meeting

The New York Convention met from 17 June through 26 July 1788 in Poughkeepsie, a post town situated about a mile east of the Hudson River about halfway between New York City and Albany. According to the U.S. Census of 1790, Poughkeepsie had a population of about 2,500—including 371 heads of families and 199 slaves. It contained a Presbyterian and an Episcopalian church, an academy, and a print shop where the weekly *Country Journal* was published. The state legislature occasionally met in Poughkeepsie.

The Convention met at the county's attractive new two-story courthouse designed in the Dutch style with two-foot wide stone walls and a timbered steeple. A jail was attached to it. Started in 1785, the structure, except for minor features, was completed in 1786. A fire destroyed it in 1806.

The National Setting

By the time the New York Convention assembled on 17 June 1788, eight states had ratified the Constitution; one (Rhode Island) had voted not to ratify. During the six weeks the New York Convention sat, conventions in three other states met. The Virginia Convention convened on 2 June and ratified on 25 June. The New Hampshire Convention convened its second session on 18 June and ratified the Constitution three days later. North Carolina's Convention met on 21 July. It was widely assumed that New Hampshire would ratify the Constitution, thus providing the ninth state necessary to implement the Constitution among the ratifying states. The prospects for ratification in Virginia and North Carolina were uncertain. Because the delegates to the New York Convention were overwhelmingly Antifederalist, it was expected that the Convention would either adjourn without ratifying or would ratify on the condition that amendments were first adopted, which would be the equivalent of a rejection.

The Delegates

Sixty-five delegates were elected to the Convention—46 Antifederalists and 19 Federalists. Many delegates held prominent state and county offices. Governor George Clinton and Melancton Smith, one of Clinton's

closest political advisers, did not represent New York City where they resided, but their respective home counties of Ulster and Dutchess. All three of New York's delegates to the Constitutional Convention in Philadelphia became members of the New York Convention—Robert Yates, justice of the state Supreme Court, Alexander Hamilton, delegate to Congress, and John Lansing, Jr., mayor of Albany. The other two justices of the Supreme Court were also delegates (Chief Justice Richard Morris and John Sloss Hobart), as was Chancellor Robert R. Livingston. Eleven past or current members of Congress, fourteen past or current state senators, and thirty-seven past or current state assemblymen also sat in the Convention. John Jay, the Confederation's Secretary for Foreign Affairs, was elected and was granted a leave of absence by Congress so that he could attend the Convention.

Housekeeping

The first session of the Convention opened at noon on 17 June, with about fifty delegates in attendance. Governor George Clinton was unanimously elected president. After appointing two secretaries, a doorkeeper, a messenger, and a printer, the delegates voted that the Convention be open to the public. The Convention read the legislature's resolution calling the Convention (31 January and 1 February), ordered that prayer open each morning's session, and appointed a rules committee. On 18 June the Convention amended and then accepted the report of the rules committee, read the Constitution and the resolutions of the Constitutional Convention (17 September 1787) and Congress (28 September 1787), and ordered that these documents be printed and distributed to each Convention delegate. John Lansing, Jr., moved that the Convention sit the next day as a committee of the whole to discuss the Constitution. Federalists wanted Richard Morris to chair the committee of the whole, but Albany County judge Henry Oothoudt, an Antifederalist, was elected.

The Debates and Proceedings

Antifederalists were determined not to ratify the Constitution unconditionally. Several possibilities existed. The Convention could adjourn without ratifying; it could propose recommendatory amendments as some other states had done; or it could refuse to ratify until proposed amendments were adopted. Some Antifederalists insisted that a second constitutional convention be called to consider amendments.

Simultaneously with the public debate, Federalists privately sought to persuade individual Antifederalists to support some form of unconditional ratification. John Jay wrote his wife that "the Event" was uncertain, but "I do not despair . . . altho I see much Room for apprehen-

sion” (21 June, VI, below). Alexander Hamilton wrote James Madison, a Virginia Convention delegate, that “the minor partisans have their scruples and an air of moderation is now assumed. So far the thing is not to be despaired of” (19 June, VI, below).

Antifederalist leaders received a copy of the amendments that were being considered by Antifederalists in the Virginia Convention, who asked that the New York Convention appoint a committee “to meet one from their Body, to agree on the necessary Amendments” and communicate them to Virginia as soon as possible (John Lamb to George Clinton, 17 June, RCS:N.Y., 1797–98). New York Convention Antifederalists appointed a committee of correspondence chaired by Robert Yates that on 21 June responded positively to the Virginians.

On 19 June, the committee of the whole read the Constitution. Chancellor Robert R. Livingston delivered an hour-long oration in a low voice that was inaudible to some of the delegates. Livingston deprecated the Articles of Confederation and warned of the dangers that New York faced outside the Union. In closing, Livingston moved that the Constitution be discussed clause by clause and that no vote be taken on the Constitution or any parts of it before the whole was discussed. The delegates adopted the motion even though some Antifederalists, both in and out of the Convention, feared “some Injury from a long delay” (Lansing to Abraham Yates, Jr., 19 June, RCS:N.Y., 1702). Most Antifederalists, however, were little concerned, believing that the “Unanimity and Harmony” among their ranks would “shut out the Shadow of Hope, in the Federalists, of creating Divisions” (James M. Hughes to John Lamb, 18 June [RCS:N.Y., 1202]). Federalists, on the other hand, were heartened that an immediate vote to reject the Constitution would be avoided.

The principal Federalist speakers were Alexander Hamilton, John Jay, and Robert R. Livingston with support from James Duane, Richard Harrison, Richard Morris, and John Sloss Hobart. The principal Antifederalist speakers were Melancton Smith and John Lansing, Jr., with support from Samuel Jones, George Clinton, John Williams, Thomas Tredwell, Gilbert Livingston, Robert Yates, William Harper, Matthew Adgate, Zephaniah Platt, Nathaniel Lawrence, and Stephen Carman.

On 20 June John Lansing Jr., and Melancton Smith responded to Livingston’s opening speech. They admitted that the Articles of Confederation were defective, and Lansing said that could easily be remedied by increasing the powers of Congress. Fear of disunion was not a reason for adopting the new Constitution. The Union was important but it should not be preserved at the cost of liberty. Smith then started the discussion of the Constitution by paragraphs.

Federalists and Antifederalists vigorously debated the individual paragraphs of the Constitution. Antifederalists often proposed amendments to the clauses under consideration. Federalists were pleased with this process because it delayed the final vote, giving them time to persuade Antifederalists while they awaited word from the New Hampshire and Virginia conventions. Only one more state ratification was needed to put the Constitution into effect among the nine ratifying states.

On 24 June word arrived in Poughkeepsie that New Hampshire had ratified the Constitution. The news had little effect on Antifederalists. Henry Oothoudt reported that the news “Does not seem to make an Impression I Expect it will not” (to Abraham Yates, Jr., 27 June, VI, below). Christopher P. Yates, a Montgomery County delegate, wrote that “we stand firm we have as yet lost no ground. . . . there is not the most distant fear of a division among ourselves. . . . I observe no change in the countenance, the opinion or the resolution of any” (to Abraham Yates, Jr., 27 June, VI, below).

Federalists were heartened when word arrived on 2 July that the Virginia Convention had ratified the Constitution with recommendatory amendments. Antifederalists again seemed unaffected, but signs of disunity started to appear. Immediately, Federalists changed their strategy—they ceased debating the Constitution. On 3 July Antifederalist delegate Nathaniel Lawrence reported that Federalists had previously “disputed every inch of ground but to day they have quietly suffered us to propose our amendments without a word in opposition to them” (to John Lamb, RCS:N.Y., 1261).

On 7 July the Convention finished debating the Constitution by paragraphs, and John Lansing submitted a bill of rights that was “to be prefixed to the constitution.” The Convention met and adjourned “without doing business” for two days as Antifederalists caucused to devise a strategy. John Jay sensed that the Antifederalist “Party begins to divide in their opinions”; this, according to Alexander Hamilton, “affords some ground of hope.” Some Antifederalists favored ratification with conditional amendments; others as early as 8 July with only recommendatory amendments; still others preferred to ratify for only a number of years “on Condition that certain amendments take place within a given Time” (Jay to Washington, 4, 8 July, and Hamilton to Madison, 8 July, RCS:N.Y., 2114–15, 2116–17).

On 10 July Lansing submitted a plan that called for three types of amendments: (1) explanatory, (2) conditional, and (3) recommendatory. The first included a bill of rights and explanations of unclear portions of the Constitution. The second provided that until a general convention considered these explanatory amendments, Congress should not (1) call upon the state militia to serve outside New York for

longer than six weeks without the consent of the state legislature, (2) regulate federal elections within New York, or (3) impose excises or collect direct taxes in New York without first requisitioning the tax from the state legislature. The third stated that the recommendatory amendments should be considered by the first federal Congress.

Federalists attacked the plan as “a gilded Rejection” that Congress would never accept. Antifederalists were said to describe their plan as “our *Ultimatum*” (Abraham Bancker to Evert Bancker, 12 July, RCS:N.Y., 2148–50). On 11 July John Jay moved that the Convention ratify the Constitution without conditions but with certain explanations and with recommendatory amendments. Debate continued until 15 July when Melancton Smith moved to amend Jay’s motion to make it conform to Lansing’s 10 July plan. On 16 July John Sloss Hobart moved for an adjournment until 2 September. This motion was rejected on 17 July by a vote of 40 to 22. James Duane moved that Smith’s amendment be postponed to consider another variant of an unconditional ratification, which was defeated 41 to 20. After further consideration of Smith’s plan, Smith himself proposed an alternative. Acknowledging that Congress would not accept his previous plan, Smith moved that New York ratify the Constitution with the stipulation that the state could withdraw from the Union if Congress did not call a second convention to consider amendments within a certain number of years. Smith conceded that, because Congress would not accept a conditional ratification, he would not vote for such a ratification. Smith’s new plan further divided Antifederalists. On 18 July the Convention quickly adjourned and that evening the Antifederalists caucused.

On 19 July, Hamilton wrote to James Madison (back in Congress in New York City) to ask whether Congress would accept New York’s ratification if it contained the right to withdraw after a number of years. The next day Madison advised him that such a ratification would be unacceptable to Congress.

When the Convention met on 19 July, John Lansing, Jr., moved that a conditional ratification similar to Smith’s first proposal be considered. The Convention agreed to Lansing’s motion 41 to 18 and then proceeded to consider the plan, which called for ratification “upon condition” that certain amendments be adopted. On 23 July Antifederalist Samuel Jones moved that the words “upon condition” be replaced by “in full confidence.” Smith supported the change. Jones’s motion was adopted 31 to 29.

On 24 July, Lansing renewed Smith’s old motion that New York reserve the right to secede from the Union if amendments were not considered within a certain number of years. At this point Hamilton read the letter he had received from Madison stating that Congress

would not accept such a ratification. John Jay, Chancellor Livingston, and James Duane agreed with Madison. The Convention adjourned and reconvened on 25 July when Lansing's motion was rejected 31 to 28. The committee of the whole then voted 31 to 28 to ratify the Constitution and reported to the Convention, which approved the report 30 to 25. The Convention then unanimously agreed to prepare a circular letter to the states calling for a second general convention to consider amendments and elected a committee to draft the letter. The Convention adjourned until 5:00 P.M. when it unanimously adopted recommendatory amendments. On 26 July the Convention agreed to the declaration of rights, form of ratification, explanatory amendments, and recommendatory amendments 30 to 27 and unanimously adopted the circular letter. Antifederalist delegate Cornelius C. Schoonmaker lamented "that the Federalists have fought and beat us from our own ground with our own weapons" (to Peter Van Gaasbeek, 25 July, RCS:N.Y., 2299), while Philip Schuyler, a Federalist observing the Convention, reported that "perseverance, patience and abilities have prevailed against numbers and prejudice" (to Peter Van Schaack, 25 July, VI, below).

Transmittal of New York's Form of Ratification and the Circular Letter

On 26 July two engrossed copies of the Form of Ratification were signed by Convention President George Clinton and attested by the two secretaries. Clinton was asked to transmit one copy to Congress and one of the secretaries was to deposit the other Form of Ratification in the office of the Secretary of the State of New York, "there to remain of record." Clinton wrote a letter dated 26 July in which he transmitted "by the Hand of the Honorable Mr Hamilton a Delegate of this State in Congress," New York's ratification to Congress. Congress received the transmittal on 30 July.

Copies were made of the Circular Letter. President Clinton was asked to sign the letter and transmit a copy to the executive of each state. Clinton was also asked to transmit the proceedings of the Convention to the next session of the New York legislature and to request that the legislature cooperate with the legislatures of the other states in calling a second convention to obtain amendments to the Constitution.

Compensation

On 26 July the Convention requested that President Clinton determine the expenses of the Convention and lay the account before the next session of the state legislature. On 28 February 1789 the legislature passed a general compensation act. Delegates to the state Convention were to be paid 12 shillings per day for their travel and attendance. A full day's travel was set at thirty miles. Blank spaces in printed vouchers

were filled in and the account was then certified by President Clinton and submitted to the state treasurer for payment. (See a sample voucher, RCS:N.Y., Vol. 5.) The compensation act also allowed each of the Convention's secretaries (John McKesson and Abraham B. Bancker) 30 shillings per day, and the Convention's doorkeeper (David Barclay) and messenger (James Pritchard) 12 shillings per day. Nicholas Power, printer to the Convention, was given £98 for his services (*Laws of the State of New-York* . . . [New York, 1789], 69 [Evans 22013]).

The Sources

For a discussion of the Convention sources, see RCS:N.Y., Vol. 1, lxxiii–lxx.

The Arrangement of the Debates

The overall record of the debates is scattered. Francis Childs's *Debates* is the prime source through 2 July. The *Convention Journal* provides only a skeletal outline of the proceedings. John McKesson, one of the Convention's secretaries, kept extensive notes of proceedings, debates, and records of resolutions and roll-call votes. Several delegates took notes of the debates and/or wrote drafts or outlines for their own speeches.

The debates and motions printed in this volume are not arranged reporter-by-reporter as in Max Farrand's *Records of the Federal Convention of 1787*. Instead, they are arranged in the order in which delegates spoke and acted, and all of the reports of a particular speech are placed together, usually from the most complete to the least complete version. The source citation for each report is given within brackets at the end of each version. Different versions of the same speech are separated by a hairline while a series of asterisks separates different speakers.

Occasionally the notes available make it difficult, if not impossible, to determine with certainty the order in which delegates spoke. In such cases the notes of debates are placed in what seems, from the contents of the notes, to be the logical order.

Newspapers and private letters often describe individual speeches, motions, and/or general events that occurred in the Convention. Whenever a newspaper describes a particular speech or action, it is included in the grouping of reports of that particular speech. Newspapers and letters that describe more general events or a series of interconnected events are placed at the end of a day's proceedings under the headings "Newspaper Reports of Convention Debates" or "Private Commentaries on the Convention."

Photographic facsimiles and/or transcriptions of Childs's *Debates*, the *Convention Journal*, McKesson's notes, the complete notes of each individual note-taker, and complete newspaper items can be found on Mfm:N.Y.

Delegates to the New York Convention

From 29 April to 3 May 1788, sixty-five delegates were elected to the New York Convention. Following each delegate's name, an "A" indicates that he was elected as an Antifederalist or an "F" indicates that he was elected as a Federalist. A second letter follows—a "Y" indicates that the delegate voted to ratify the Constitution; an "N" indicates that the delegate voted against ratification; and an asterisk (*) indicates those who were either absent or abstained. One Federalist and seven Antifederalist delegates did not vote. President of the Convention George Clinton, who had voted in the committee of the whole, presumably did not vote because he was presiding. The other seven non-voting delegates were presumably absent because none of them signed the Convention's Circular Letter to the other states on 26 July. All of the Antifederalists would have wanted to sign the Circular Letter and the Federalist delegates were committed to sign the Circular Letter unanimously as the price they paid for Antifederalist support for ratifying the Constitution.

OFFICERS

PRESIDENT	MESSENGER
George Clinton	James Pritchard
CHAIRMAN OF THE COMMITTEE	PRINTER
OF THE WHOLE	Nicholas Power
Henry Oothoudt	CHAPLAINS
SECRETARIES	Henry Van Dyck
John McKesson	Daniel Marsh
Abraham B. Bancker	RULES COMMITTEE CHAIRMAN
DOORKEEPER	James Duane
David Barclay	

DELEGATES

CITY AND COUNTY OF ALBANY	
John Lansing, Jr. (A-N)	Anthony Ten Eyck (A-*)
Henry Oothoudt (A-N)	Israel Thompson (A-N)
Dirck Swart (A-*)	Peter Vrooman (A-*)
Robert Yates (A-N)	
COLUMBIA COUNTY	
Matthew Adgate (A-N)	John Bay (A-N)
Peter Van Ness (A-N)	
DUTCHESS COUNTY	
Jonathan Akin (A-N)	Zephaniah Platt (A-Y)
John De Witt, Jr. (A-Y)	Melancton Smith (A-Y)
Gilbert Livingston (A-Y)	Jacobus Swartwout (A-N)
Ezra Thompson (A-*)	

KINGS COUNTY

Peter Lefferts (F-Y) Peter Vandervoort (F-Y)

MONTGOMERY COUNTY

John Frey (A-N) Volkert Veeder (A-N)
 William Harper (A-N) John Winn (A-N)
 Henry Staring (A-N) Christopher P. Yates (A-*)

CITY AND COUNTY OF NEW YORK

James Duane (F-Y) John Jay (F-Y)
 Alexander Hamilton (F-Y) Robert R. Livingston (F-Y)
 Richard Harison (F-Y) Nicholas Low (F-Y)
 John Sloss Hobart (F-Y) Richard Morris (F-*)
 Isaac Roosevelt (F-Y)

ORANGE COUNTY

John Haring (A-N) John Wood (A-N)
 Henry Wisner, Sr. (A-N) Jesse Woodhull (A-Y)

QUEENS COUNTY

Stephen Carman (A-Y) Nathaniel Lawrence (A-Y)
 Samuel Jones (A-Y) John Schenck (A-Y)

RICHMOND COUNTY

Abraham Bancker (F-Y) Gozen Ryerss (F-Y)

SUFFOLK COUNTY

Jonathan N. Havens (A-Y) Henry Scudder (A-Y)
 David Hedges (A-*) John Smith (A-Y)
 Thomas Tredwell (A-N)

ULSTER COUNTY

John Cantine (A-N) James Clinton (A-N)
 Ebenezer Clark (A-N) Cornelius C. Schoonmaker (A-N)
 George Clinton (A-*) Dirck Wynkoop (A-N)

WASHINGTON AND CLINTON COUNTIES

Albert Baker (A-N) Ichabod Parker (A-N)
 David Hopkins (A-N) John Williams (A-N)

WESTCHESTER COUNTY

Thaddeus Crane (F-Y) Lewis Morris, Sr. (F-Y)
 Richard Hatfield (F-Y) Lott W. Sarls (F-Y)
 Phillip R. Livingston (F-Y) Phillip Van Cortlandt (F-Y)

The New York Convention
Tuesday
17 June 1788

Convention Journal, 17 June 1788 (excerpts)¹

Pursuant to concurrent resolutions of the Senate and Assembly of this State, of the thirty-first day of January and first day of February last, the Delegates chosen by the people of this State in the respective counties, to form a Convention to take into consideration the report of the Convention of the States lately assembled in Philadelphia, and the letter and resolutions which accompanied the same to Congress, and the resolution of Congress thereon, met in the Court-house in Poughkeepsie, in the county of Dutchess. The certificates of the Supervisors of the respective counties being read,² it appeared that the following gentlemen were elected Delegates to form the Convention, viz. . . .

The Convention unanimously elected his Excellency George Clinton, Esquire, to be their President, and placed him in the chair accordingly.

The Convention appointed John Mc. Kesson and Abraham B. Bancker, to be their Secretaries.

David Barclay was appointed doorkeeper, James Pritchard, messenger, and Nicholas Power, printer to the Convention.

Ordered, That the doors of the Convention Chamber be open when the Convention are sitting.

The resolutions of the Senate and Assembly of the 31st day of January and first day of February last, were then read, and are in the words following, viz.³ . . .

David Hopkins, Esquire, appeared and produced a certificate of the Supervisors of Washington county, that he was duly elected in the said county as a member of this Convention, which was read.

Ordered, That Mr. Hopkins do take his seat.

Ordered, That the business of this Convention be opened every morning with prayer; and that Mr. Duane and Mr. G. Livingston, be a committee to wait on the gentlemen of the clergy in the precinct of Poughkeepsie, and request them to make such arrangements among themselves, that one of them may attend daily for that purpose.⁴

Ordered, That a committee of five members be appointed by ballot, to report rules and regulations for conducting the business of this Convention.⁵

The ballots being taken and told, it appeared that Mr. Duane, Mr. Jones, Mr. R. Morris, Mr. Lansing and Mr. Haring, were elected.

Ordered, That those five gentlemen be a committee for that purpose. Then the Convention adjourned until eleven of the clock to-morrow morning.

1. For reports of this day's proceedings by New York newspapers, see Mfm:N.Y.
2. For the procedure used by the county supervisors (the mayor, recorder, and aldermen in the City and County of New York) in canvassing the ballots and issuing the election certificates, see RCS:N.Y., 1354, 1414–17.
3. John Lansing, Jr., made the motion prompting the reading of the state legislature's resolution (McKesson's Notes, Mfm:N.Y.). For the resolution, see RCS:N.Y., 705–6.
4. James Duane made the motion prompting this order (McKesson's Notes, Mfm:N.Y.).
5. Melancton Smith made the motion prompting this order (McKesson's Notes, Mfm:N.Y.).

The New York Convention Wednesday 18 June 1788

Convention Journal, 18 June 1788 (excerpts)¹

WEDNESDAY, 11 O'CLOCK, A. M.

The Convention met pursuant to Adjournment.

Three certificates of the Supervisors of Columbia county, were read, whereby it appears that Peter Van Ness, John Bay, and Mat[t]hew Adgate, Esquires, who are now present, were duly elected in the said county as members of this Convention.

Ordered, That Mr. Van Ness, Mr. Bay and Mr. Adgate, do take their seats.²

Mr. Duane from the committee appointed to report rules and regulations for conducting the business of this Convention, brought in the report of the said committee, which was read, and the same being again read by paragraphs, and amended, was agreed to by the Convention.

Thereupon *Resolved*,

1st. That at the meeting of the Convention each day, the minutes of the preceding day shall in the first place be read, at which time mistakes, if any, shall be corrected.

2d. That all motions and addresses be made to the chair, and standing.

3d. That every motion made and seconded, except motions for adjournment, shall be handed to the chair in writing, and there read before any debate or question taken thereon.

4th. That upon every question taken, the yeas and nays shall be entered, if requested by any two members.

5th. That if two members rise to speak, and there shall be a dispute which of them rose first, it shall be determined by the President.

6th. That no interruption shall be suffered while a member is addressing the chair, but by a call to order by the President, or by a member thro' the President.

7th. That no member be referred to by name in any debate.

8th. That if any member shall transgress the rules a second time, the President may refer to him by name. That the Convention may examine and censure the member's conduct, he being allowed to extenuate or justify.

9th. That any member making a motion, may withdraw it before the question is put thereon; after which any other member may renew the same motion, if he thinks proper.

10th. That the appointment of all committees shall be by ballot.

11th. That none be admitted within the bar, excepting the members and Secretaries.

12th. That the preceding rules shall be observed when the Convention resolve itself into a committee of the whole.

The clerks of the Senate and Assembly, pursuant to concurrent resolutions of the Legislature of the 31st day of January and first day of February last, delivered to the Convention copies of the report of the Convention of the states lately assembled in Philadelphia, and of the resolutions and letter accompanying the same to Congress, and of the resolution of Congress thereon; which were severally read, and are in the words following, viz.

[The Constitution with the names of the signers, the Convention's Resolutions and the Convention's Letter to the President of Congress, 17 September, and the Resolution of Congress, 28 September 1787, appear here in the Journal.]

Resolved, That the Convention will to-morrow resolve itself into a committee of the whole, to take into consideration the said report and resolutions, and letter accompanying the same.³

Ordered, That the Secretaries procure a sufficient number of copies of the said report and resolutions, and letter, to be printed, to furnish a copy to each member of the Convention.⁴

Ordered, That the Secretaries deliver daily a copy of the Journal of this Convention to the printer by them appointed.⁵

Then the Convention adjourned until ten of the clock to-morrow morning.

1. The *Country Journal*, 24 June, reprinted the *Convention Journal* verbatim. For newspaper reports of this day's proceedings, see Mfm:N.Y. The *Daily Advertiser*, 23 June (Mfm:N.Y.), printed a slightly modified version of this day's proceedings. See notes 2 and 5 (below).

2. The *Daily Advertiser*, 23 June, account stated that “The Members from Columbia county, Mr. Jay from New-York, and several other gentlemen attended and took their seats” (Mfm:N.Y.).

3. In Childs, *Debates*, 6, this paragraph reads: “After which the Convention on motion of Mr. *Lansing* agreed to resolve itself the succe[e]ding day into a committee of the whole.”

4. See RCS:N.Y., 47, for a discussion of this printing of the Constitution. Three copies of this twenty-page pamphlet edition of the Constitution have been located. An unannotated copy is at the New York Public Library (Evans 21524). John Jay’s lightly annotated copy is in the New-York Historical Society, while Robert R. Livingston’s heavily annotated copy is in the William Wilson Papers, Clements Library, University of Michigan. Livingston’s annotation is printed as an appendix in RCS:N.Y., Vol. 5.

5. The *Daily Advertiser*, 23 June, stated that “It was ordered, that the Secretaries have the Journal of the Convention published daily” (Mfm:N.Y.), and the *New York Journal*, 26 June, published a similar report (Mfm:N.Y.).

The New York Convention Thursday 19 June 1788

Convention Journal, 19 June 1788

THURSDAY, 10 o’Clock, A. M.

The Convention met pursuant to Adjournment.

The order of the day being read, the Convention accordingly resolved itself into a committee of the whole on the report of the Convention of the States lately assembled in Philadelphia, and the resolutions and letter accompanying the same to Congress, and the resolution of Congress thereon; after some time spent therein, Mr. *President* re-assumed the Chair, and Mr. *Oothoudt* reported, that the committee had made some progress, and had directed him to move for leave to sit again.

Ordered, That the committee have leave to sit again.

Resolved, That the Convention will meet every day at ten of the clock in the forenoon, and adjourn at two in the afternoon.

Then the Convention adjourned until ten of the clock to-morrow morning.

Convention Debates, 19 June 1788

On the 19th of June the Convention met pursuant to adjournment, and the order of the day being read, resolved itself into a committee of the whole, and Mr. *Oothoudt* was called to the chair.

The Constitution being again read, the honorable *Robert R. Livingston* rose and addressed the chair as follows.—

ROBERT R. LIVINGSTON. Mr. CHAIRMAN, As the preamble to the plan under consideration comprizes the great objects of the Union, it will be proper at this place to introduce such general observations as may with less propriety be noticed when particular articles are under consideration, and which may serve at the same time to shew the necessity of adopting some more efficacious plan of Union, than that by which we are now bound.—In the course of the observations I shall make with this view, many things will be urged that will be of little use to those gentlemen who have heard all that has been said, who have read all that has been written on this subject, and who have formed their judgments after mature consideration; with such all debate is unnecessary:—but I trust, Sir, there are many gentlemen present, who have yet formed no decided opinion on the important question before us, and who (like myself) bring with them dispositions to examine whatever shall be offered, and not to determine till after the maturest deliberation: To such I address myself.

Ever since a pure and perfect religion has lent her mild lights to philosophy, and extended her influence over the sentiments of men, it has been a received opinion, that the happiness of nations, as well as of individuals, depends on peace, and that intimate connection which mutual wants occasion. To establish this on the basis of a general union of nations, has, at various times, employed the thoughts and attention of wise and virtuous men: It is said to have been the last great plan of the illustrious *Henry* the IVth of France, who was justly esteemed one of the wisest and best of Princes.¹ But, alas, Sir, in the old world, every attempt of this nature will prove abortive. There, governments are the children of force or fraud, and carry with them strong features of their parent's character. Disputes will not be referred to a common umpire, unless that umpire has power to enforce his decrees; and how can it be expected that Princes, jealous of power, will consent to sacrifice any portion of it to the happiness of their people, who are of little account in their estimation. Differences among them, therefore, will continue to be decided by the sword, and the blood of thousands will be shed, before the most trifling controversy can be determined. Even peace can hardly be said to bestow her usual blessings on them; their mutual jealousies convert peace into an armed truce; the husbandman feels the oppression of standing armies, by whom the fruits of his labour are devoured; and the flower of youth is sacrificed to the rigors of military discipline. It has pleased Heaven to afford the United States means for the attainment of this great object, which it has withheld from other nations. They speak the same language, they profess the same religion; and, what is of infinitely more importance, they acknowledge the same

great principle of government—a principle, if not unknown, at least little understood in the old world—that *all power is derived from the people*. They consider this State, and their general governments, as different deposits of that power. In this view, it is of little moment to them whether that portion of it, which they must for their own happiness lodge in their rulers, be invested in the State Government *only*, or shared between them and the council of the Union. The rights they reserve are not diminished, and probably^(a) their liberty acquires an additional security from the division.

Let us not then, Sir, neglect to improve the advantages we possess; let us avail ourselves of the present moment, to fix lasting peace upon the broad basis of national union; let us, while it is still in our power, lay the foundation of our own happiness and that of our posterity. Jealousies may spring up; the seeds of them are already sown; the present moment may be the only one afforded for eradicating them.

I am too well satisfied, Sir, of the virtue and patriotism of those to whom I address myself, to suppose that their determination will be influenced by any unworthy motive:—But, Sir, I dread the effect which a hasty or partial view of the subject may have on their minds; and, above all things, I dread lest the chimerical ideas of perfection in government, which gentlemen may have formed, should induce them to reject this, as falling short of their standard. Perfection, Sir, is not the lot of humanity; and perhaps, were the gentlemen on this floor to compare their sentiments on this subject, no two of them would be found to agree: Nay, such is the weakness of our judgment, that it is more than probable that if a perfect plan was offered to our choice, we should conceive it defective and condemn it. The only people whose government was visibly directed by God himself, rejected his administration, and induced him in his wrath to give them a King.² Let us be cautious, Sir, lest by our negligence or eager pursuit after chimerical perfection, we should forfeit the blessings we enjoy, and lose this precious opportunity of completing what other nations have been unable to effect.

As on the one hand, Sir, our situation admits of an Union, so on the other our distresses point out its necessity. I will not at this time touch on the declining state of our commerce; nor will I remind you of our national bankruptcy, of the effect it has upon our public measures, and the private misery that it causes; nor will I wound your feelings by a recapitulation of the insults we daily receive from nations, whose injuries we are compelled to repay by the advantages of our commerce. These topics have been frequently touched; they are in every man's mind; they lie heavy at every patriot heart; they have induced states the

most independent in their situation to unite in their endeavors to remove them; they operate with peculiar force on us. Permit me, however, to make some observations, drawn from *our particular* situation, and which will shew in the clearest light, that our existence as a state depends on a strong and efficient^(b) Federal Government.

He then went into a minute consideration of the natural advantages of this State drawn from its valuable and abundant staples; the situation of its principal sea-port; the command of the commerce of New-Jersey, by the rivers discharging themselves in our bay;—the facility that the [Long Island] Sound afforded for an intercourse with the Eastern States. He observed upon the advantages resulting from the Hudson, which he described as bearing upon its bosom the wealth of the remotest part of the State. He touched upon the prospects that a lasting peace afforded of commanding the treasures of the Western World by the improvement of our internal navigation. He said that to these natural advantages, we might add many other adventitious circumstances. He observed that a considerable proportion of our domestic debt was already in the Treasury, and that tho' we were indebted for a part of this to our citizens, yet that that debt was comparatively small and could easily be extinguished by an honest exertion on the part of the government. He observed, that our back lands were competent to the discharge of our foreign debt if a vigorous government should be adopted, which would enable us to avail ourselves of this resource; so that we might look forward to a day when no other taxes would be required from us, than such as would be necessary to support our internal government; the amount of the impost being more than adequate to the other expences of the Union. He feared that a prospect of these advantages had excited an improper confidence in ourselves; that it has produced an inflexibility which had rendered us regardless of the wishes and expectations of the other States, and lessened that respect which was due as well from nations to each other, as from individuals. We have insisted, says he, that every knee shall bow to the golden image³ we have set up. But let us remember that how valuable soever the materials of which its nobler parts are composed, its feet (like those of the image in the vision) are composed of iron and clay, of materials that will not adhere together, and which the slightest shock will tumble to the earth.

He observed, that wealth excited envy, stimulated avarice, and invited invasions;—that if the Union was dissolved, we could only be protected by our domestic force. He then urged the incapacity of the State to defend itself, from the detached situations of its ports, remarking particularly upon that of Staten-Island and Long-Island, their vicinity to

States which in case of a disunion, must be considered as independent, and perhaps unfriendly powers.⁴ He turned the attention of the committee to the North-East, where he shewed Vermont ready to avail itself of our^(c) weakness;⁵ speaking of the people of that State, as a brave and hardy body of men, that we had neither the spirit to subdue, or what he more strongly recommended, the magnanimity to yield to. On the North-West he pointed to the British posts⁶ and hostile tribes of savages. He shewed that in case of domestic war, Hudson River, that great source of our wealth, would also be that of our weakness, by the intersection of the State, and the difficulty we should find in bringing one part to support the other.

He then ran over the alliances that would be formed in case of a disunion; pointed out the connection between the Eastern States, and urged various reasons to shew that it was neither the interest nor wish of the States on the East or West to form a league offensive and defensive with us. Having dwelt largely on this subject, he deduced as a consequence from it, that our wealth and our weakness equally required the support of a Federal Union. He observed that this could only be found in the existing confederation or in that under consideration; urging that as union could only be founded on the consent of the States, it should be sought where we had reason to expect that consent; that to depart from this would be to investigate as many ideal systems as there were persons who had thought on the subject of government. He observed that in the then state of things, it was problematical at least, whether we could recur to the old confederation, but as many gentlemen thought it possible he would proceed to investigate it. He then went through the confederation and shewed, that the powers intended to be vested in Congress, were very similar to those given by the new government, to wit—to raise troops—possess a common treasure—borrow money—make treaties—appoint civil officers, &c. He observed that as on the one hand the want of these powers would not be objected to in the confederation; so on the other, the possession of them could not be urged as a fault in the new plan.

He asked whether with these powers, it had been able to effect the purposes designed by the Union—whether it had repelled invaders—maintained domestic peace—supported our credit, or extended our commerce: He proved that not one of these objects had been effected by it. He pointed to the British possessions in the limits of this State,⁷ held in defiance of the most solemn treaties, and contempt of our government, as proof of its incompetency to defend our rights against foreign powers. How has it happened, said he, that Vermont is at this moment an independent State? How has it happened that new States

have been rent from those on the west, that were entitled to the protection of the Union?⁸ He asked if any gentlemen would assert, that our national credit was fixed upon a proper basis—that our commerce enjoyed the advantages we had a right to expect? If then, said he, experience has shewn that the existing confederation (if I may use the term) has not answered the great ends of the Union, it must either have arisen, from an insufficiency in its powers, or from some defect in the execution of them: If insufficient, more should be added; if not executed, the cause should be enquired into. He shewed that with the addition of a few powers, those it possessed were competent to the purposes of the Union. But that the defect of the system rested in the impossibility of carrying into effect the rights invested in them by the States. He then run through every power intended to be vested in Congress, and shewed that the exercise of them, by the intervention of the State governments, and subject to their pleasure or their different views of the matters recommended to them, would be attended with insuperable difficulties, inconveniencies, and delays, even if they were disposed to carry them into effect. But that, if (which experience had shewn, would often be the case) they should either neglect or refuse to comply with the requisition, no means were pointed out by the confederation to coerce them, but that it was left, as all leagues among nations, to military force. He shewed in a strong point of view, the danger of applying this; and deduced from all those observations that the old confederation was defective in its principle, and impeachable in its execution, as it operated upon States in their political capacity, and not upon individuals; and that it carried with it the seeds of domestic violence, and tended ultimately to its own dissolution. He then appealed to our experience in the late war, to shew the operation of this system, and demonstrated that it must from its construction leave every State to struggle with its own difficulties, and^(d) that none would be roused to action but those that were near the seat of war. He alledged that this idea of a Federal Republic, on the ground of a league among independent States, had, in every instance, disappointed the expectations of its advocates.—He mentioned its effects in the antient Republics, and took a view of the Union of the Netherlands, and shewed that even when they were struggling for every thing that was dear to them in the contest with Spain, they permitted the burden of the war to be borne in a great measure by the province of Holland, which was at one time compelled to attempt to force a neighbouring province by arms to a compliance with their Federal engagements. He cited the Germanic league, as a proof, that no government formed on the basis of the total independency of

its parts, could produce the effects of union. He shewed that notwithstanding the power of their Federal head from his hereditary dominions, the decrees of their general diet were little regarded, and different members of the confederacy were perpetually rushing upon each others swords.

He then observed upon the necessity of adding to the powers of Congress, that of regulating the militia—referring to the article in the proposed plan, which he said he would not anticipate. He urged the common consent of America as a proof of the necessity of adding the power of regulating commerce to those Congress already possessed, which he said not only included those of forming laws, but of deciding upon those laws and carrying them into effect: That this power could never be trusted to the individual States, whose interest might in many instances clash with that of the Union. From hence he inferred the necessity of a federal judiciary, to which he would have referred not only the laws for regulating commerce, but the construction of treaties and other great national objects, shewing that without this, it would be in the power of any State to commit the honor of the Union, defeat their most beneficial treaties, and involve them in a war. He next adverted to the form of the Federal government—He said that though justified when considered as a mere diplomatic body, making engagements for its respective States which they were to carry into effect, yet if it was to enjoy legislative, judicial, and executive powers, an attention as well to the facility of doing business as to the principles of freedom, called for a division of those powers.—After commenting on each of them, and shewing the mischief that would flow from their union in one house of representatives, and those too chosen only by the legislature,⁹ and neither representing the *people* or the *government*, which he said consisted of legislative, executive, and judicial, he proposed the constitution of this State as the model for the state [i.e., general] government.

From these observations he deduced, first, that the powers which were, by common consent, intended to be vested in the federal head, had either been found deficient, or rendered useless by the impossibility of carrying them into execution, on the principle of a league of States totally separate and independent. Secondly, that if the *principle* was changed, a change would also become necessary in the form of the government: But if we could no longer retain the old principle of the confederacy, and were compelled to change its form, we were driven to the necessity of creating a new constitution, and could find no place to rest upon in the old confederation—That he had urged these considerations to fix gentlemen's attention to the only true ground of enquiry; to keep them from reverting to plans which had no single feature

that could now be serviceable, and to lead the way to a minute discussion of every article, with candor and deliberation; and in order that this might be the better effected, and no gentleman pledged before he had fully considered the subject, he intended before he sat down, to move the resolution he had in his hand: He considered the question as one that not only effected the happiness and perhaps the existence of this State, but as one that involved the great interests of humanity—Many of us, Sir, said he, are officers of government, many of us have seats in the Senate and Assembly—let us on this solemn occasion forget the pride of office—let us consider ourselves as simple citizens assembled to consult on measures that are to promote the happiness of our fellow citizens. As magistrates we may be unwilling to sacrifice any portion of the power of the State—as citizens, we have no interest in advancing the powers of the State at the expence of the Union: We are only bound to see that so much power as we find it necessary to entrust to our rulers, be so placed as to ensure our liberties and the blessings of a well ordered government.

He then offered a resolution, the purport of which was, “That no question, general or particular, should be put in the committee^(e) upon the proposed Constitution of Government for the United States, or upon any clause or article thereof, (nor upon any amendment which should be proposed thereto,) ^(f) until after the said Constitution and amendments should have been considered^(g) clause by clause, through all its parts; and that any amendments which may be proposed shall be submitted to the consideration of the Committee without a question being taken thereon.” ^(h)

The said resolution being taken into consideration, was agreed to by the Convention.¹⁰

The Committee then rose, and the Convention adjourned till next day, 10 o'clock A. M. [Childs, *Debates*, 6–11]¹¹

[Differences in the *Daily Advertiser* printing]

- (a) “Perhaps” not “probably” in the *Daily Advertiser*.
- (b) “Effective” not “efficient” in the *Daily Advertiser*.
- (c) “Themselves of their” not “itself of our” in the *Daily Advertiser*.
- (d) “Proved” inserted at this point in the *Daily Advertiser*.
- (e) “Propounded in this Convention” in the *Daily Advertiser* instead of “put in the committee.”
- (f) The text in angle brackets does not appear in the *Daily Advertiser*.

- (g) “Shall have been discussed” in the *Daily Advertiser* instead of “and amendments should have been considered.”
- (h) The text in angle brackets appears in the *Daily Advertiser*, but not in Childs, *Debates*.

◆

R. R. LIVINGSTON. Governmts. in Europe Arbitrary—we are freer
It is safer to give up part of the Power of particular Govt. to a Genl
Govent

A perfect Govt. is Ideal—

But one perfect Govt.—People rebelled & compelld God in his wrath
to give them a King—

Say nothing of the more wealthy States have adopted it

Draw a Veil over our national Weakness—Decay of Trade &c

Proper to mention peculiar Advantages of this State—

Advantages of Staples—Trade of our Neighbours—best port—

Domestic Debt in the Treasury—Back Lands will with *a Vigorouss*
[government] will pay the Residue—

All these like the Image in the Vision—

The Effects of Disunion—

The Capital disunited by Water within a Stones throw of a jealous
Neighbour¹²—An Extensive Coast opposed to the Depredations of
other States—To the North East Vermont our Natural Enemy—To the
Northwest our Natural Enemies who command the Savages The Center
divided by a large River—

Citizens of a Powerful State if united—weak if otherwise—

We cannot form alliances—Manners dissimilar

Madness in New England to enter into alliances with us—We are
vulnerable we not—

Jealousies between us and Jersey—she will join the middle States—

I would not Sacrafice Liberty & Good Govt. to union—

Let us then examine this Govt.

Where is union to be found? Either in the former Confederation
if existing or in that now Offered to our Consideration—

Some Gent suppose we might unite Under & Amend the old Con-
federat—

Have we powers of Defence agt. foreign Enemies—why British
hold our posts—Can we defend our State—how arose Vermont—how
arose the new Western States—

How comes our Commerce restricted—

Powers of Congress repeated and considered—The Like powers
in the proposed plan—

The Powers we give to Congress but cannot be exercised—

The Power to raise Troops is by requisitions to the States—These cannot relieve in breaking out of War—A State may refuse more than their Quota—

Each State takes the Liberty to consider and determines for themselves—

This State will most probably be the Seat of war when war Happens—

No Power to compel the States to comply with the Requisitions of Congress but Arms—

The like as to the raising Monies—

The like as to the power to borrow or obtain Loans—

perhaps involve the States in War when the day of paymt Comes—

To borrow without certain funds must be on extravagant Interest—

Why make Treaties if there is not power to compel the Execution—
These Treaties may involve us in a War—

If they have not the Power each State may make Treaties clashing with each other—

Federal purposes were never answered by foederal Governments—

Are there not now States which never paid a farthing¹³—

Consider Germany—The Governor a powerful Prince—The Governmt wretched¹⁴

Many Reasons for adding to Congress the power of Regulating Militia

The Voice of America agrees that Congress regulate Commerce¹⁵—

It will be necessary to add Judicial Powers as to Duties on Commerce and Determinations on Treaties¹⁶—

The Members of Congress only represent the Legislatures of the States but not the people of the States—

More safety in have a Legislative Body divided—Still More safe to have the Executive divided—

Let us give Congress the powers necessary—

It will be admitted we must have a new Governmt.

Let us Consider the plan offered and in that Consideration let us consider ourselves only as Citizens, not as Magistrates—

To go into this Consideration calmly, for that purpose examine by Paragraphs, without any Question until the Whole is discussed Clause by Clause— [McKesson's Notes, NHi]

◆

R. R. LIVINGSTON. The Chancellor then rose and addressed the Chair—

To the people it is a matter of indifference said he whether these [powers] are vested in the general or particular government, as they

make no greater sacrifice of their liberty to [one] than to the other.—He believed that all men agreed that a power for ruling should be given—they only differed in respect to the hands they should place it in.—He was pleased with the opportunity prospect that now presented itself, where we might lodge it securely, and to advantage, & hoped that we might not throw away the opportunity.—The seeds of Jealousy were already Sown, & if we lost the present opportunity for an union, we might never have another—He trusted that no Gent. had come there who was not disposed to render his country essential services; and yet he was not without his apprehensions—He feared more from the false ideas of some, than the particular views of others.—If any two in that room were selected to draft a Constitution he did not suppose they would agree—all human institutions were imperfect—~~do not~~ therefore and that we ought not to let us sacrifice real advantages for ideal dangers.—Such was the difference of opinion among men, that even in the only instance wherein God had visited the Earth to give it a form of Government, they had disagreed.—He spoke pathetically¹⁷ on our situation and the advantages that would result from union—our necessities he said called for one—he would not urge it from those topics which were in every mans mouth—he would draw a veil over our national weaknesses—he would say nothing on the decay of our commerce—the loss of our credit—the private distresses which it occasioned;—and the insults daily received from abroad.

Continuing his arguments for the necessity of an union he said that New York had advantages superior to any other State. It had the supports of Life in greater abundance, & besides the surplus to support our Commerce had all those Staples which are to be found in the more northern States.—The waters of New Jersey were tributary to those of New York;—the communication with the Eastern States was easy & safe;—the noble Hudson which ranges through our State affords a ready conveyance to our Markets;—& the whole trade of the Western Country would probably concenter with us.—that the greater part of our domestic debt was in our Treasury;—tho' much was still due to our Citizens, A little industry and economy would soon rid us of discharge this.—The back Lands under a vigorous Government would be a great source for its redemption;—under a weak Government, they would produce nothing.

If we were disunited, we should have no other Support than our own internal strength would afford.—We were weak, one of our Counties, & that which commands our best harbour was but a stone's throw from a neighbouring State, and that State too, not only entertained jealousies of us, but had a claim upon that very County;¹⁸ another great part of

our State lay exposed to the ravages of any foreign invader, & which, in the late war, even the whole force of Great Britain could not save from plunder. When we looked to the North East we should find a great tract of our country erected into a free and independent State, in defiance of our Laws, by a race of brave and hardy men whom we had compelled to be our enemies.—On the North West, we should find our natural enemy in force within our borders—in what part then was the Strength of our State to be found? Not here—a broad, & a deep river intersected us—so that if either side should be attacked, it would be difficult to obtain succours from the other.—Taking therefore a general view of the State, he considered it as the weakest in the Union.—He knew that there was a certain pride which we all felt—we were taught to believe that we were Strong, & of importance—in union, we were Strong indeed.—

Some Gentlemen he believed, entertained ideas that if we were disunited from the grand confederacy, we might form Separate alliances—let us, said he, examine whether this be practicable—we know that a similarity of manners has connected the Eastern States—in our habits & manners we are quite different from them.—Discussions of territory early took place between us—& it is well known that those disputes existed till the beginning of the late war:¹⁹—they may not yet be forgotten. We have no reason to expect that they will be our voluntary allies.—What inducements can we hold out to them?—Is there any thing that we can offer?—It will be madness for us to think of it. If any of the U. S. is vulnerable it is New York.—our ports are easily assailed by water—& by land our Northern Frontiers invite the Foe—Is it therefore to be expected that the Eastern States would agree to a league which would involve them in war.—This argument, if it would have weight with them, ought to have weight with our Western neighbours. New Jersey will be more attached to the middle States than to us—not more from motives of policy—than a jealousy that Subsists between us. What then is to be our doom, is it in our power to Stand alone?—he wished not to be misapprehended—tho' he knew the value of union—he also knew the value of good government.—It was not his object to induce Gentlemen to accept of the proposed government, without duly considering it:—He only wished to impress upon the House the importance of coolly & candidly discussing the subject—some sacrifice must unavoidably be made, & it should be well considered which was to be preferred, either to make a partial Sacrifice; or give up the union.—But our weakness and our wealth equally concurred to make an union necessary.—He thought it proper to examine where was this

union to be found; he knew but two places—either by a common consent among the neighbouring States, which he had shewn to be improbable—or in the Constitution now offered.—He knew that some Gentlemen entertained ideas of remaining under the Old Confederation. he would examine the practicability of it.—The great object of union had been pointed out in the paragraph just read (the Preamble of the Constitution) he asked if we had found any of those benefits under the existing confederation—Do we find it capable of defending us against our foreign enemies? How comes it then that the British are in possession of a great part of our State.—Is it in our power to maintain domestic tranquility? if it is, how has it happened that Vermont is a free and independent State.—How has it happened that new States have arisen in the West, & in the heart of other States.²⁰—Sir, said he, does any Gentleman pretend to say that our commerce stands on the ground it ought; is it not governed by the Laws of Great Britain²¹—If then we have not found security and domestic tranquility—if new States may arise—if our commerce is restricted—and our national reputation injured.—These misfortunes must flow from some radical defects in the old confederation—there was an insufficiency of power given to the general government.—For altho' it appeared by the old confederation that many powers were given, yet they were withheld, by withholding the means of executing them.—For instance, Congress had a power to raise troops by a requisition on the States.—if there should be a war on the Banks of the Mississippi,²² it would be almost impossible to get troops there from this State, or from New England,—who would feel little anxiety from dangers at that distance.—On the other hand if a war should break out in the Eastern States—the Southern States would furnish their quotas with equal reluctance. But there is a greater danger which arises from each State Judging of the propriety or impropriety of the war;—if the navigation of the Mississippi is the object—the Eastern States will not find themselves interested in the event.—if the Fishery, the Southern States will not think it an object of their concern.—Who does not know the difficulties this State experienced in the late war from a neglect of the States to comply with the requisitions of Congress.—This will eternally be the case—& Congress have no power to compel a compliance—because there can be no coercion but that of arms—& this will ever be unadvisable, (even if it was practicable) as it carries with it the seeds of disunion and domestic violence.—The power of raising money was of a nature with that of raising troops—the public treasury must either be filled by voluntary contributions—or by force. The power to make loans is also given in the

same defective manner—as the power of borrowing must depend on the capacity of repaying.—Suppose said he there may be some who would be credulous enough to lend—Congress not having the means of repaying—it might involve us in a war,—for foreign powers would not suffer us to rob them under the masque of a loan.—Besides, the power of making loans under the old Confederation is in other respects disadvantageous—as none can borrow on good terms except those who have funds to pledge.—The power of making treaties is also given to Congress,—but of what avail is it for Congress to make treaties without being able to compel an observance of them.—Have we any reason to believe but that every treaty will more or less clash with the interest of some one of the States.—and is it not in the power of that State to involve us in a war by disregarding those Treaties.—There was, he repeated, a radical defect in the old Confederation.—Federal Republics had often been attempted, but in vain.—The United Netherlands he observed was a Federal Republic, and in our day we had seen the difficulties they had experienced. Even the long war in which they made their noble struggle for liberty²³—the burthens of that war was chiefly born by the Province of Holland one of the most wealthy and powerful in the confederacy; by the repeated instances of the other provinces neglecting to make good their proportion of supplies, was obliged to send an armed force into their country and levy contributions.²⁴—Have not we delinquent States—States who for a long time have added nothing to the common treasury.—The Germanic confederacy he cited as another instance, of the inefficacy of Federal Governments.—Who tho' a body of brave & virtuous men, were continually rushing on each others Swords.—These things tended to prove that the principles of those governments were radically defective.—He spoke of the necessary powers to be given to Congress—& among the most urgent mentioned that of regulating our commerce now on the decline—he supposed they would all agree on that point.

~~Congress he said were hardly the representatives of the States.—~~

He gave many other evidences of the defects of the old confederation—& all tending to force the necessity of adopting the New Government, which, he said, we had happily at present in our power—He wished that Gentlemen would go into the investigation of it with candour, and with sincerity;—the cause of humanity was interested in the present decision.—He wished that all prejudices & jealousies might be banished from among them. Many of us, said he, are the Officers, and the Legislators of the State.—On this solemn occasion let us consider ourselves as So many private citizens assembled to consult on the general good.—As officers of government we may feel interested in retain-

ing those powers which we now possess—but as Citizens, it can make no difference to us, whether we live under a general or particular State government, provided we find the same security in the one as in the other.

He had made the foregoing address as a preface to the following resolution,—it was intended to prevent any hasty & premature decisions—give every member a chance of coming forward with his sentiments & by examining the Constitution with patience and diligence, clause by clause, give it a fair & dispassionate discussion.—

The resolution he offered was &c.— [Robert R. Livingston, Notes, NHi]



R. R. LIVINGSTON. not to speak on the Const—

all power originates with the people—and indifferent whether it be lodged in a general or partl. state govt—perhaps better to divide it—prays we may not lose the present opportunity—

trusts every man comes wt. a spirit of [patriotism?]—

but fears from partial views from desire of perfection men cannot agree God gave a gove[rnmen]t the people did not alike—

A Union is necessary—draw a veil over nationl. calamities—says nothg abt. our national [distress?] decay of trade decay of credit—

The par[ticu]l[ar] Circ[umstance]s of this state—we have plenty of the nec[essitie]s of Life—to spare—Our navigation, com[merce] our Domestic debt small & easily paid—our back Lands will pay our Debts, under vigorous government.—

Our importance has raised our pride like the wealth

the effects of disunion cons[idere]d—our strength is weakness—

The capital seperated from the rest, and in the neighbourhood of another State—

The frontiers exposed to a foreign Enemy—

Northeast, erected into the State [of Vermont]

Northwest, in possession of a foreign [power]

where is our Strength—not here, we are seperated by a large river—

It may be said we will form alliances

The Eastern States united by a similarity of manners—disunited from us by the contrary—and circumstances—

No inducement from Interest—but the contrary—

N. Jersey will ally with the middle States—

Union very necessary—but not an argument to conclude in fact—two modes of union—

1st. In the present confederation

2d. In the present proposed Const—modified as we can agree—

the Ideas of some, that we can unite under alterations in the present C[onfederation]

The objects of union

1. Defence again[st] foreign Enemies
2. Domestic tranquility
3. protection of Commerce—

Defence we have not under present govt. because the foreigners hold posts—

Domestic tran[quility]—because Verm[on]t and Western States

Commerce regul[ate]d by G.B—credit is destroyed, and national Character lost—

It follows there is defects—must arise from want of power or want of means of exercise—

The same powers are given by that govt.

The powers are given but cant be exercised—

The power to raise Troops by requisition, attended wt [— — —] inconvenien[ce]s—because they [might?] be marched from one end of the Cont. to the other—

Each State will take upon them to judge—Missipi—the eastern States will not raise Troops—&c—

This State most interested from our having a great frontier—

No power to compel, but by arms—The same objection to raising money

The power of making Loans, either nugatory or injurious—

The power to borrow ought to be [founded?] on the ability to pay—

If those who borrow have funds to pledge they borrow on good terms

The power of Treaties—a power of involving us in distress—because left in the will of the seperate States—

No example of federal Republics, have ever succeeded—

In the war with Spain, some States never pd., and holland marched a force in one of them—

Germany bids the fairest of any & yet constantly convulsed

Common consent has dictated the necessity of commercial powers—

Judicial powers necessary to regulate revenue matters—

To construct treaties, and determining disputes—

The pres[en]t congress not Represts. of the people or govt—

proper while a diplomatic corps

a Division of powers proper—less liable to faction—

as an executive body too numerous

but Montesquies principle of a division of power is so well acquid [i.e., acquiesced] in.²⁵

Would propose the government of N. York as a Model—
 The happs. of millions depends on their vote
 the cause of humanity—
 Consider ourselves not as Magistr[ate]s as members of the Legisla-
 tures [Melancton Smith, Notes, N]

1. The reference is to the so-called “Grand Design” of Henry IV (1553–1610), king of France from 1589–1610. Papers relating to the “Grand Design” were found among the papers of Henry’s finance minister Maximilien de Béthune, Duc de Sully (1560–1641). The papers were included in Sully’s *Mémoires*, the first complete edition of which was published in 1662. (An incomplete edition had appeared in 1638, three years before Sully’s death.) In the 17th and 18th centuries, the *Mémoires* were printed in many editions. Americans were probably most familiar with a three-volume edition that appeared in London in 1747. In this edition, the Abbé de l’Écluse des Loges took what were several schemes in the *Mémoires* and brought them together in a single coherent whole. It was this edition of the *Mémoires* that made the “Grand Design” famous.

The “Grand Design”—essentially a plan to bring about and to establish peace in Europe—called for the organization of Europe as a Christian Republic in which Catholics, Lutherans, and Calvinists would be equal and exclusive. Europe would be divided into six hereditary monarchies, five elective monarchies, and four republics. Each power would be represented in a grand council that would resolve disputes and establish “an indissoluble bond of security and friendship.” There is no evidence, however, in Sully’s writings that Sully ever thought in terms of such a plan, and there is no definitive evidence that Henry IV ever thought so either.

2. For the institution of monarchy in Israel, see 1 Samuel 8–12. Saul was the first king of Israel. For a fuller discussion of this matter, see Convention Debates, 20 June, Melancton Smith’s speech at note 16 (below).

3. Daniel 3:5, 7, 10.

4. New Jersey and Connecticut—the “unfriendly powers” neighboring on New York—were hostile to New York because much of the foreign goods they consumed was imported through New York City. Consequently, they paid New York’s impost in the form of higher prices. (See RCS:N.Y., Vol. 1, xxxi, xxxvii.)

5. In 1777 Vermont declared its independence from New York and Great Britain. New York sought the help of Congress in recovering Vermont, but Congress did little to assist it (RCS:N.Y., Vol. 1, xxxii). As a result, Vermont had little to fear from a weak central government. However, the new Constitution adopted by the Constitutional Convention of 1787 caused much concern among Vermonters who feared that the stronger central government created by the Constitution would coerce them into returning to the jurisdiction of New York. Moreover, since Vermont was still technically part of New York, Vermonters were concerned about the provision of the Constitution that stipulated that no new state could be formed from the territory of another state without that state’s approval. In 1791, Congress asked New York what it required for it to allow Vermont to enter the Union as a state. New York replied that it would agree to Vermont statehood if Vermont paid New York \$30,000 which would be used to compensate New Yorkers who had lost land in Vermont.

Vermonters also believed that the new government would imperil their commercial negotiations with British officials in Canada. Therefore, Vermonters sought a Vermont-British alliance and a reciprocal trade treaty. Americans were still concerned about British influence in America and were unhappy about the overtures that Vermonters had made to the British.

6. A reference to the refusal of the British to evacuate their Northwest forts, five of which were in New York. (See RCS:N.Y., Vol. 1, xxxiv–xxxv; and Kaminski, *Clinton*, 85.)

7. A reference to British forts. (See note 6, above.)

8. The reference is probably to the State of Franklin and Kentucky. The State of Franklin was created in 1785 out of the western counties of North Carolina, but it collapsed in early 1788 due to internal dissensions and the opposition of North Carolina, Virginia, and Congress. In December 1786 the Virginia legislature passed an act authorizing Kentucky residents to elect a convention to decide on separate statehood. In September 1787 a convention met in Danville and voted to separate from Virginia. The convention's request was presented to Congress on 29 February 1788. Congress appointed a committee to consider the matter, but on 3 July Congress deferred the question of Kentucky statehood to the new Congress under the Constitution. (See CC:Vol. 3, p. 485n; and CC:Vol. 6, p. 153n.) Kentucky became a state in 1792. For the abortive attempt to create a state out of the Wyoming Valley in Pennsylvania, see at note 20, and note 20 (below).

9. Under the Articles of Confederation, delegates to Congress were appointed annually in the manner in which each state legislature saw fit. The states retained the power to recall their delegates (CDR, 87). In Connecticut and Rhode Island, the people elected congressional delegates. In all of the other states, the legislatures elected them.

10. On 23 June both the *Daily Advertiser* and the Lansingburgh *Federal Herald* noted that the resolution was passed without opposition. For an elaboration on how the resolution evolved, see John Lansing, Jr., to Abraham Yates, Jr., 19 June (below). De Witt Clinton declared that the resolution was adopted with an amendment (to Thomas Greenleaf, 24 June [RCS:N.Y., 1744]). For Livingston's reason for introducing the resolution, see RCS:N.Y., 1695. For the draft resolution and the changes made to it, see Mfm:N.Y.

11. The debates for this day were first printed in Childs's *Daily Advertiser* on 24 June. They were reprinted in the *New York Journal*, 26 June, *Country Journal*, 1 July, *Albany Gazette*, 3 July, and Lansingburgh *Federal Herald*, 7 July, and in whole or in part in six newspapers outside New York by 26 August: Vt. (1), Mass. (3), Conn. (1), Pa. (1). After reprinting the speech, the *Country Journal*, 1 July, informed its readers: "Mr. Lansing's observations [on 20 June] in answer to the Chancellor, will appear next week." Livingston's speech lasted one hour. (See De Witt Clinton to Thomas Greenleaf, 24 June, and *New York Packet*, 24 June [RCS:N.Y., 1741, 1744].) Significant differences between the versions in the *Daily Advertiser* and Childs, *Debates* are indicated by internal footnotes (a) through (h).

12. The reference could be to New York City or to that part of the island of Manhattan near New Jersey. In the version of the speech in the Livingston Papers, Livingston refers to "one of our Counties, & that which commands our best harbour was but a stone's throw from a neighbouring State, and that State too, not only entertained jealousies of us, but had a claim upon that very County." The "very County" referred to Richmond County, also known as Staten Island.

13. For the payment of the congressional requisitions by the states, see RCS:N.Y., 14, note 4.

14. A reference to the Holy Roman Empire, which was often described as a confederacy. John Lansing, Jr., described this empire briefly in a speech (Convention Debates, 20 June, below). The empire was described at greater length in *The Federalist* 19, *Independent Journal*, 8 December, written by James Madison, with the assistance of Alexander Hamilton (CC:333). See also Madison's "Notes on Ancient and Modern Confederacies," Rutland, *Madison*, IX, 18–22.

15. John Lansing, Jr., admitted as much in his speech of 20 June (Convention Debates, 20 June, below, at note 2, and note 2).

16. A proposed amendment to the Articles of Confederation considered by Congress in August 1786 provided for a federal appellate court to have jurisdiction in cases involving treaties and the regulation of commerce (CDR, 167).

17. "Pathetically" meant "in a moving manner."

18. See note 12 (above).

19. For New York's boundary disputes with Massachusetts, Connecticut, and New Hampshire during the colonial period, see Philip J. Schwarz, *The Jarring Interests: New York's Boundary Makers, 1664–1776* (Albany, 1979).

20. "In the heart of other States" probably refers to the abortive attempt of the Connecticut settlers living in the Wyoming Valley of Pennsylvania to establish a state in open defiance of the State of Pennsylvania. (See CC:Vol. 3, pp. 63n–64n.) For the western states of Franklin and Kentucky, see note 8 (above).

21. For the British trade restrictions, see CC:Vol. 1, p. 24, and for New York's opposition to them, see RCS:N.Y., Vol. 1, xlv–xlv.

22. If such a war erupted, the United States would fight Spain over the right to navigate the Mississippi River and to deposit goods at New Orleans.

23. The Dutch provinces openly rebelled against Spain in 1567–68, and after many years of intermittent fighting their independence was finally recognized in the Treaty of Westphalia in 1648.

24. The pivotal role of the Province of Holland is similarly discussed in *The Federalist* 20, *New York Packet*, 11 December 1787, written by James Madison with the assistance of Alexander Hamilton (CC:340). See also Madison's "Notes on Ancient and Modern Confederacies," Rutland, *Madison*, IX, 11–18, and the notes to *The Federalist* 20, in *ibid.*, X, 324n.

25. On the separation of powers among the executive, legislative, and judicial branches of government, see Montesquieu, *Spirit of Laws*, I, Book XI, chapter VI ("Of the Constitution of England").

Newspaper Reports of Convention Debates, 19 June 1788

*New York Daily Advertiser, 23 June 1788*¹

On Thursday last in the Convention of this State, Mr. Chancellor Livingston, in a Committee of the whole, made a most excellent speech on the necessity of an union between this State and the United States. (In a very pathetic² manner he described the peculiar and alarming situation of our country; he recommended to the house, in strong terms, coolness and candor in the discussion of the Constitution;) and concluded by moving for a resolution, in substance, "That no question general or particular, should be taken, until the Constitution shall have been discussed clause by clause; and that any amendments which shall be proposed, shall be submitted to the consideration of the Committee without any question being taken thereon."

This was agreed to without opposition.

1. Reprinted in four newspapers: in the *Pennsylvania Packet*, 26 June, which omitted the second paragraph; in full in the Middletown, Conn., *Middlesex Gazette*, 30 June; and

in the *Massachusetts Centinel*, 2 July, and the *New Hampshire Spy*, 5 July, both of which deleted the text in angle brackets.

2. “Pathetic” meant “moving.”

Albany Journal, 23 June 1788¹

Extract of a letter from a gentleman at Poughkeepsie, to his friend in this city, dated on Friday last [20 June].

⟨“Our friends here are in high spirits. What passed in Convention on Tuesday [17 June], I take for granted you are informed of.⟩²—Wednesday the new Constitution was read, and a motion made by Mr. Lansing, that the Convention form themselves into a Committee of the whole, and take up the Constitution to-morrow—a committee was appointed to desire the clergy in the vicinity of this place, to pray every morning with the Convention, and rules were agreed on to be observed by the House—Thursday, after prayers, the President took the chair, and a motion made to go into Committee; Mr. Harper then moved that Mr. Henry Oothoudt be Chairman, ⟨who without opposition took the chair⟩³—The Constitution was then read; after which the Chancellor [Robert R. Livingston] rose and spoke better than an hour, and concluded with making the following motion, which was agreed to without a division—‘Resolved, that no question, general or particular, shall be put in this Committee upon the proposed Constitution of Government for the United States, or upon any clause or article thereof, *nor upon any amendment which may be proposed thereto*, until after the said Constitution *and amendments* shall have been considered clause by clause.’⁴ ⟨I should have said that the motion is not as it stood when first moved—it was amended by the Anti’s (as I have marked in Italics) by consent—The Chairman then reported some progress, and requested leave to sit again.⟩⁵ Adjourned until to-morrow.

“It is probable the Convention will sit for 3 or 4 weeks.”⁶

1. On the same day, the Lansingburgh *Federal Herald* printed an “*Extract of a letter from a gentleman in Poughkeepsie to his friend in Albany, dated Friday June 20,*” that is identical except in certain important respects. (See footnotes 2–3, 5–6, below.) For the *Federal Herald’s* version, see Mfm:N.Y.

2. The text in angle brackets does not appear in the *Federal Herald*.

3. The text in angle brackets does not appear in the *Federal Herald*.

4. The *Federal Herald* also italicized the same words found in the resolution.

5. The text in angle brackets does not appear in the *Federal Herald*.

6. Others also made predictions about the duration of the debates. Alexander Hamilton thought the debates would last “at least a fortnight” (to James Madison, 19 June, VI, below), while James Kent predicted “probably three weeks” (to Robert Troup, 20 June, below). At this point the *Federal Herald* added: “Almost every member attends. Mr.

Childs is here, and takes down the debates, which will make a regular appearance in his paper.”

*New York Journal, 23 June 1788 (excerpt)*¹

Extract of a letter from Poughkeepsie, dated June 20.

“Yesterday the Chancellor made the opening speech. The great objects of which were to shew the defects of the general government, and the necessity, therefore, of a new one—that is, the present proposed one. *Confederacies*, in general, were reprobated—as instances of *weakness* and imperfections. The calamities of war were painted in glowing colours, as the result to this state, if they refused to receive the Olive Branch, to wit—the New Constitution.—Our ports were open to the south for invaders—the Savages and the British were on our west; in short, *Heaven, armed with the elements*, was ready to pour down *vengeance*; state officers were requested to *divest* themselves, in the consideration of this business, of their attachment to their *dignity* and *interests*,—after which the Convention adjourned until this morning. . . .”

1. Reprinted in seven newspapers by 24 July: N.J. (1), Pa. (4), Va. (1), S.C. (1). The remainder of this letter extract is printed below under 20 June.

*Poughkeepsie Country Journal, 24 June 1788 (excerpt)*¹

. . . Mr. Chancellor Livingston opened the debates by a very elegant address to the House. He pointed out the necessity of Union to this State, in particular from its peculiar local situation.—He traced generally the leading and radical defects of the existing Confederation, and inferred strongly the magnitude and importance of the question then to be considered, and the propriety and even duty of divesting themselves of every preconceived prejudice, and of examining with the utmost coolness, moderation and candor. . . .

1. The first paragraph is on Mfm:N.Y. The remainder of this article is printed below under 20 June.

*New York Independent Journal, 25 June 1788 (excerpt)*¹

On Thursday Mr. Chancellor Livingston introduced the deliberations of the convention by a pertinent speech of considerable length, in which he stated the defects of the existing constitution, the necessity of material alterations, and the nature and tendency of the constitution now offered for adoption. . . .

1. Reprinted in the *Norfolk and Portsmouth Journal*, 9 July. The remainder of this item is printed below under 20 June.

Private Commentaries on the Convention, 19 June 1788

*John Lansing, Jr., to Abraham Yates, Jr.
Poughkeepsie, 19 June 1788*¹

On Tuesday [17 June] the Convention met when *53 Members* attended.—The Governor was unanimously voted in the Chair probably from the Conviction of the Federalists that Opposition would be vain—a Committee was then appointed to draw Rules—who reported Yesterday—after the Report was approved of and reading the Constitution & papers accompanying it, the Convention made it the Order of this Day to resolve itself into a Committee of the whole—In the Recess several of the Federalists intimated their wish to compliment the chief Justice² with the Chair in Committee—but upon our informing them that we were determined to make Judge Oothou[d]t Chairman they acquiesced without Opposition & he was this Morning unanimously elected. As soon as the papers refered to the Committee had been read the Chancellor rose and made an Oration stating the Inefficiency of the present Confederation—colouring in the most animated Gloss the Calamities to which this State would peculiarly be exposed if the Union should be dissolved and exhorting the Committee to a dispassionate Investigation of the important Question before us and concluding it with a Motion that the Constitution should be discussed by paragraphs before any Question taken on it, to which we consented upon his adding that if any Amendments should be proposed those should also be debated delaying the Question on them till the whole should be gone through, after which the Convention adjourned.

I apprehend some Injury from a long Delay by diminishing our Numbers and perhaps from Operations on the Hopes or Fears of a few—We find the papers have pretty generally distinguished properly as to their Sentiments.

To Morrow the Business will be opened, if some general Speeches equally applicable to all or no part of the Constitution do not prevent us.

1. RC, Lansing Papers, Vol. 1, Gansevoort-Lansing, NN.

2. Richard Morris of New York City and County.

*James Kent to Robert Troup
Poughkeepsie, 20 June 1788*¹

I had the pleasure of receiving your letter by Mr. Harrison and in compliance with your desire I will shortly state to you the proceedings of the Convention hitherto.

They met on Tuesday [17 June] in pretty full house and elected Governor Clinton President, and appointed by Ballot—Duane—Judge Morris, Lansing—Jones and Herring a Committee for reporting rules for the regulation of the Convention. On Wednesday the rules were adopted—the Constitution read and a motion made by Mr. Lansing and agreed to that on the next day they would resolve themselves into a Committee of the whole for the purpose of discussing the Constitution. On Thursday which was yesterday the house resolved itself into a Committee Mr. Outhout of Albany Chairman—the Chancellor rose and called our attention to a fine introductory speech of one hours length—He mentioned the importance of the occasion and the peculiar felicity of this country which had it in its power to originate and establish its Government from reason and choice whilst on the Eastern Continent their Governments and the reforms of them were the Children of force—he then pointed out the necessity of *Union* particularly to this State from its local situation which rendered it peculiarly vulnerable, not only to foreigners, but to its neighbours—he stated that an Union was to be expected only from the old Confederation, or from the Government now under their consideration—he then demonstrated the radical defects of the confederation that its principle was bad in legislating for States in their political capacity as its constitutional demands could only be coerced by arms. that it was equally defective *in form* as the Congress was a single body too small and too liable to faction from its being a single body to be entrusted with legislative power and too numerous to be entrusted with executive authority: the Chancellor on this head only gave a summary of the arguments of Publius² when treating of the defects of the confederation, but the summary was neither so perfect nor so instinctive by a vast difference as the Original—It was not however to be expected in a short address—he concluded that survey by entreating the house to divest themselves of prejudice and warmth, to examine the plan submitted with the utmost coolness and candour to consider themselves as citizens assembled to consult for the general good and not as State Officers who might be opposed in that capacity to every determination of their Authority; he concluded his speech by a motion which with some amendments was agreed to by the house that they would discuss the constitution by Paragraphs and any amendments which might be proposed in the course of the debate without taking the Question as to any Paragraphs or as to any amendments which might be offered until the whole constitution was discussed—

This Sir is a scetch of the proceedings of the Convention to this day, we expect they will this morning enter on the Subject by Paragraphs.

I imagine they will be some time in the discussion, probably three weeks as to the result I can only say, I look forward to it with anxious uncertainty, I do not abandon hope, I think the opposition discover great embarrassment, I believe they do not know what to do, some of them I am told have said they will not vote against it, the decision in New-hampshire & Virginia we are flattering ourselves will be favorable and that they will give energy to the debate on one side In our Convention, and confusion if not absolute despair to the other side I hope you and our friends in New York will give us the earliest information from these States.

In giving you the heads of the Chancellors speech I believe I am not mistaken he spoke rather low and there was so much noise and the bar so much crowded that I confess I lost at least one third of the speech, tho' I trust not the general course of the reasoning, what I regretted more I lost some of his figures for which he is peculiarly eminent, I shall take the liberty to trespass on patience by every opportunity as I trust your curiosity will excuse me—

1. Copy, Autograph Letters, NHi.

2. The pseudonym used by the authors of *The Federalist*. For Kent's familiarity with *The Federalist*, see RCS:N.Y., 138n–39n, 142n, 380, 437, 453, 581; and CC:Vol. 2, p. 313n.

The New York Convention Friday 20 June 1788

Convention Debates, 20 June 1788

Convention met pursuant to adjournment.

Went into a Committee of the whole.

Mr. *Oothoudt* in the chair.

The Honorable Mr. *Lansing* then rose, and addressed the chair as follows:—

JOHN LANSING, JR. MR. CHAIRMAN, I am equally disposed with the honourable gentleman from New-York [Robert R. Livingston], who favoured the Committee with his sentiments yesterday, to a candid and dispassionate investigation of the important business now under consideration, and to receive every possible information on the occasion.

I do not mean to state any objections to the clause now read; but wish the indulgence of the Committee, while I make some observations in answer to those which were given to the Committee by the honorable gentleman from New-York.

Sir, The project devised by *Henry* the IV.¹ in his closet, to form a confederated republic of the European states, may perhaps be considered as visionary in its object, but originating in motives which were in some measure peculiar to himself, as from the power and importance he possessed, he might have flattered himself that he should have been at the head of it: But a difference in language, manners, religion and interests of their sovereigns, would have defeated it, if it had been attempted. Here a confederated republic is only more attainable from the circumstance of all the powers existing in, or originating from the people, and a similarity of language and manners: We ought therefore to be extremely cautious how we establish a government which may give distinct interests to the rulers and governed, so as to induce the former to pursuits adverse to the happiness of the United States.

It has been observed, that as the people must of necessity delegate essential powers either to the individual or general sovereignties, it is perfectly immaterial where they are lodged: but as the State Governments will always possess a better representation of the feelings and interests of the people at large, it is obvious that those powers can be deposited with much greater safety with the State, than the general Government.

I am equally averse to cherishing on this occasion, the idea of attaining a perfection which never existed, and to despairing of making important amendments to the system now offered for consideration: For, Sir, however much I may be disposed to perpetuate Union, however sensible of the defects of the existing Confederation, I cannot help differing from those gentlemen who are of opinion it is incapable of melioration.

I would ask, what are the objections which have been so ably urged against it? They are comprised under two heads:

1. It affords no defence against foreign insult.
2. No security to domestic tranquility.

Both these objects might be compassed if Congress could be vested with a power to raise men and money.

Requisitions made under the existing Confederation by Congress, it is allowed, are inefficient; but this defect might in a great measure have been remedied by permitting the United States to legislate on individuals after the requisitions had been made, and not been complied with. If the requisition could be thus enforced, loans of money might be negotiated when necessary, and Congress be authorised to raise money to replace them.

The languishing situation of our commerce has also been attributed to the impotence of Congress; but I think their journals will justify me

in the assertion that all the states, excepting two, had passed laws to enable Congress to regulate commerce, and that those two were not indisposed to vest that power.²

The conduct of the King of Great-Britain with respect to the Western Posts, has also been urged as the result of the inefficiency of our Government: But however organized our general government might be, I should doubt whether it was either prudent or expedient to risk a war, which would expose our coasts to depredations by an enemy, against whose attacks in that point we must remain defenceless, until we can create a fleet to repel their invasions. Will any government enable us to do this in a few years? I am convinced it will not.

That we have to encounter embarrassments; that we are distressed for want of money is undoubted: But causes which could not be controlled by any system of government, have principally contributed to embarrass and distress us. On the termination of a war which operated to exhaust our resources, we launched into every species of extravagance, and imported European goods to an amount far beyond our ability to pay. The difficulties which arose from this and several other causes, equally uninfluenced by the system of Government, were without hesitation attributed to its want of energy.

Sir, the instance adduced from the history of the Jewish theocracy, evinces that there are certain situations in communities which will unavoidably lead to results similar to those we experience. The Israelites were unsuccessful in war; they were sometimes defeated by their enemies; instead of reflecting that these calamities were occasioned by their sins, they sought relief in the appointment of a King, in imitation of their neighbours.

The United Dutch Provinces have been instanced as possessing a Government somewhat parallel to the existing Confederation: But I believe it will be discovered that they were never organized as a general government, on principles so well calculated to promote the attainment of national objects, as that of the United States. They were obliged to resort to subordinate societies to collect the sense of the state before the deputies were authorised to assent to any public measure binding on their states. Sir William Temple relates, that an important measure was prevented from taking place by the dissent of a single town, till one of its citizens was accommodated with a commission.³

The Germanic Confederacy⁴ consists of a heterogeneous mass of powerful Princes, petty despots, and republics, differently organized, divided by religious jealousies, and existing only in its forms by the pressure of the great controlling power of the Emperor. I know not that history furnishes an example of a confederated republic coercing the

states composing it by the mild influence of laws operating on the individuals of those states. This therefore I suppose to be a new experiment in politics; and as we cannot always accurately ascertain the results of political measures, and as reasoning on them have been frequently found fallacious, we should not too confidently predict those to be produced by the new System.

The dangers to which we shall be exposed by a dissolution of the Union, have been represented; but however much I may wish to preserve the Union, apprehensions of its dissolution ought not to induce us to submit to any measure, which may involve in its consequences the loss of civil liberty. Conquest can do no more in the present state of civilization than to subject us to be ruled by persons, in whose appointment we have no agency. This, Sir, is the worst we can apprehend at all events; and as I suppose a government so organized, and possessing the powers mentioned in the proposed Constitution, will unavoidably terminate in the depriving us of that invaluable privilege, I am content to risk a probable, but on this occasion a mere possible evil, to avoid a certain one. But if a dissolution of the Union should unfortunately ensue, what have we to apprehend? We are connected both by interest and affection with the New-England states: We harbour no animosities against each other—we have no interfering territorial claims⁵—Our manners are nearly similar, and they are daily assimilating, and mutual advantages will probably prompt to mutual concessions, to enable us to form an Union with them. I however contemplate the idea of a possible dissolution with pain, and I make these remarks with the most sincere reluctance, only in answer to those which were offered by the honorable gentleman from New-York [Robert R. Livingston].

Sir, I have formerly had occasion to declare to the public my apprehensions, that a consolidated government, partaking in a great degree of republican principles, and which had in object the control of the inhabitants of the extensive territory of the United States, by its sole operations could not preserve the essential rights and liberties of the people.⁶ I have not as yet discovered any reason to change that sentiment; on the contrary, reflection has given it additional force. But I stand here the representative of others, and as far as I can ascertain the views of my constituents, it is my duty to promote them with the utmost assiduity; and in no one pursuit can I be better supported by the almost unanimous opinion of my fellow citizens in the county I have the honour to represent, than in proposing amendments to the Constitution which is now the subject of our deliberations, as the mode of introducing amendments was the only point of difference. Influenced by these considerations, every amendment which I am convinced

will have a tendency to lessen the danger of invasion of civil liberty by the general Government, will receive my sincere approbation. But none which can in the remotest degree originate in local views will meet my concurrence; and I trust an intention will not be attributed to me to preserve the consequence of official state establishments.

Sir, when motives of this kind are supposed to actuate men in office by persons who have imbibed prejudices from a want of information—when they originate from an illiberality of sentiment which would disgrace the worst cause, every man who feels the injustice of the imputation, while he laments the misguided zeal which aims,⁷ by the sacrifice of private feelings to obtain a favourite object, will disregard the attempt, and consign it to merited oblivion: But when an honourable gentleman, distinguished for his liberal turn of thinking, who is possessed of one of the most lucrative offices of the state,⁸ deliberately gives his name to the public as impliedly sanctioning the sentiment, silence must unavoidably be construed into a tacit confession of its justice. The committee will therefore indulge me in remarking that if the operations of the general government will subvert those of the individual states, the interests of the state officers may be affected in some measure, otherwise their emoluments will remain undiminished—their consequence not so much impaired as not to compensate men of interested pursuits by the prospect of sharing the offices of the general government.—Does this imputation only apply to the officers of this state? Are they more discerning in distinguishing their interest, or are they only capable of being warped by apprehensions of loss? In the neighboring states, the officers of government are among the warmest advocates of the new system, and even in this state they are perhaps more divided in sentiment than any other class of men whatsoever.

But, Sir, I trust we shall divest ourselves on this occasion of every consideration of a private nature, and determine on the constitution with caution and moderation. [Childs, *Debates*, 11–15]⁹

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LANSING. in Answer to Argumts. of yesterday—

The Prince who attempted a Junction of so many Republic's could not succeed because

Otherwise here

If the Interests of the Governors and Governed are opposite they cannot continue. The People tho to be governed may with more safety trust their annual Governmts. than a General Governmt. almost independent of them—

I cannot agree that the present Confederation cannot be rendered Effectual

Most of the defects arose from want of power in the General Governmt. to enforce obedience to Requisitions on the particular States—

The New form gives Coertion on Individuals—

The Power of Imposts might also have been granted—

Commercial Regulations might have been made which would have reli[e]ved agt. Complaints on that Subject—

Every State but two have agreed to give such powers to Congress—

It has been said a General Governmt. would have obtained the western Posts—

Answer—whatever Governmt. it would not have been prudent without A Navy (the work of Ages) to risque a new War.

Our Country has been reduced to great Inconveniencies by a Long War—to Increase the Evils we imported all the Luxuries of Life for which we are unable to pay—All this attributed to the Genl Governmt.—

The Jewish Theocracy Subject to evils for their Sins & ravaged by war—The[y] Wanted a King—

The Dutch Republics have been adduced as Similar to our Situation—In Some Instances the Genl. Govt. have been controuled by a Small Body of Men—

We are not So—

They were long engaged in War—this gave them a Temporary Stat-Holder—he was afterwards appointed during the War then for Life—then Hereditary—

The Germanic Republics Confederacy not like ours—Their Customs manners Religion Language & Interests differ—

There is not any Instance in which in Confederated Republics the Govt. has Coercion on Indivi[du]als—

—We must not for the fears held up to us yesterday, part with Civil Liberty—If we are conquered it is the worst that could happen

Then why incur a certain Evil for a probable one—

I wish these Ideas Banished—

Let us consider this Constitution where it secures Liberty & Property let us agree to it—where not, let us endeavour to amend it—

We have no territor[i]al Controversy but with Vermont—we have shewn by Act of Legislature our disposition to Settle that¹⁰—

I have formerly shewn my Sentimts. they are the Same—

I now represent others—I shall offer such Amendments as to Prevent the Genl. Govt. from destroying the State Governments—not to protect State Officers—

The Sentimt. when from a Gentleman in high & Lucrative Office is gains Strength however illiberal—

In this State no men more divided in Sentimt. than the State Officers— [McKesson's Notes, NHi]

LANSING. Wish of his Constituents to have Amendments shall advocate them—upon general Principles—not upon other Principles Observations as to Office are illiberal and improper—sanctioned by what was asserted by the Ch[ancello]r.—Officers of the State not superior in Discernment, nor inferior in Honesty to those of the neighbouring States—who were in genl. in other States for the Constitution, in this divided—but personal Considerations improper, should only think of the Happiness & Liberty of the People— [Richard Harison, Notes, DLC]

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ROBERT R. LIVINGSTON rose to reply. He said, it gave him pain to observe a meaning attributed to him which was totally foreign from his mind: He by no means had intended to insinuate, that the opposition to the Constitution flowed from interested or improper motives. He knew that the officers of this state had taken different sides; he himself held a public station, and many of the officers in the several states were among its warmest advocates. He was sensible that every man in place felt, in a delicate degree, the dignity attached to his office. Far from aiming an improper suggestion of the previous or present disposition of any member, his only view was to express a hope, and at the same time a caution, that, in the prosecution of this business, gentlemen might not suffer themselves to be influenced by partial views, or private prejudices.^(a) For, said he, we sit here as simple^(b) citizens, and every species of official authority is lost in this equal assembly. But, Sir, as the officers of government were selected from the mass of the people, with an expectation that they would be their wisest and best friends, it is to be hoped that if this Constitution is proved to be a good^(c) one, and friendly to the liberties of the people, those men who are highest in office will be the most urgent to adopt, and most active to execute it. He begged leave to take notice of an observation, which had just been made. He should notice it, because it tended to establish a new and singular opinion—that is, that if a conditional power of coercion only was lodged in the government, the purposes of the Union might be answered. The idea was that Congress should make requisitions on the states, and on their non-compliance, the compulsive authority should be exercised on individuals. This idea includes an acknowledgment that the old Confederation is totally incompetent to federal purposes. But

let us view, said he, the operation of a system founded on such a principle. In the first place, the necessary revenue officers must be appointed; Congress will then send out the requisitions; and, on refusal or neglect, will resort to individual coercion. (If the states punctually comply with the requisitions, an expensive establishment must be supported, without object or employment: If, on the contrary, they are delinquent, what an alarming image of disorder is presented to our view!)(^d) A body(^e) of federal officers in the heart of a state acting in direct opposition to the declared sense of the legislature.(^f) Would not this be a source(^g) of eternal discord? Would not a government, thus calculated to promote the spirit of civil dissention, be for ever impracticable? Such a government must be attended with every delay, with every expence; must defeat itself, and be its own destruction. [Childs, *Debates*, 15]¹¹

[Differences in the *Daily Advertiser* printing]

- (a) “The prejudices incident to office” in the *Daily Advertiser* instead of “private prejudices.”
- (b) “Private” not “simple” in the *Daily Advertiser*.
- (c) “Wise” not “good” in the *Daily Advertiser*.
- (d) Text in angle brackets is omitted in the *Daily Advertiser* and is replaced by “Here Sir, an image of alarming confusion presents itself.”
- (e) “Band” not “body” in the *Daily Advertiser*.
- (f) “Its united inhabitants!” not “the legislature” in the *Daily Advertiser*.
- (g) “Government” not “source” in the *Daily Advertiser*.

◆

R. R. LIVINGSTON. I cautioned Gentlemen not to be influenced by Ideas which might have been induced by Situation or Office—

The Gent. [John Lansing, Jr.] is of opinion that the powers might be added to the old Confederation—The Gent says that if States refuse Genl. Governmt. may by their Officers coerce Indivi[du]als—This admits Coercion on Individuals necessary—but how long could this last—first call on the State—they refuse—Congress must then have all the officers and Coerce Individuals—This would be a fund of eternal Distractions and Delay— [McKesson’s Notes, NHi]

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R. R. LIVINGSTON. As to the Principle of previous Requisition— [Richard Harison, Notes, DLC]

MELANCTON SMITH said, he conceived that the Constitution ought to be considered by paragraphs. An honorable gentleman [Robert R.

Livingston] yesterday had opened the debate with some general observations; another honorable gentleman had just answered him by general observations: He wished the Constitution to be examined by paragraphs; in going through it he should offer his objections to such parts of it as he thought defective. [Childs, *Debates*, 15]

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CONVENTION PROCEEDINGS. The first section of the first article was then read, and passed by without remark.

The 2d. sect. being read, [Childs, *Debates*, 16]

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MELANCTON SMITH again rose—He most heartily concurred in sentiment with the honorable gentleman [Robert R. Livingston] who opened the debate yesterday, that the discussion of the important question now before them ought to be entered on with a spirit of patriotism; with minds open to conviction; with a determination to form opinions only on the merits of the question, from those evidences which should appear in the course of the investigation.

How far the general observations made by the honorable gentleman accorded with these principles, he left to the House to determine.

It was not, he said, his intention to follow that (honorable)^(a) gentleman through all his remarks—he should only observe, that what had been advanced did not appear to him to apply to the subject under consideration.

He was as strongly impressed with the necessity of a Union, as any one^(b) could be: He would seek it with as much ardor. In the discussion of this subject, he was disposed to make every reasonable concession, and indeed to sacrifice every thing for a Union, except the liberties of his country, than which he could contemplate no greater misfortune. But he hoped we were not reduced to the necessity of sacrificing or even endangering our liberties to preserve the Union. If that was the case, the alternative was dreadful. But he would not now say that the adoption of the Constitution would endanger our liberties; because that was the point to be debated, and the premises should be laid down previously to the drawing of any conclusion. He wished that all observations might be confined to this point; and that declamation and appeals to the passions might be omitted.

Why, said he, are we told of our weaknesses? Of the defenceless condition of the southern parts of our state? Of the exposed situation of our capital? Of Long-Island surrounded by water, and exposed to the incursions of our neighbours in Connecticut? Of Vermont having separated from us and assumed the powers of a distinct government;^(c) And of the North-West part of our state being in the hands of a foreign

enemy?—Why are we to be alarmed with apprehensions that the Eastern states are inimical, and disinclined to form alliances with us? He was sorry to find that such suspicions were entertained. He believed that no such disposition existed in the Eastern states. Surely it could not be supposed that those states would make war upon us for exercising the rights of freemen, deliberating and judging for ourselves, on a subject the most interesting that ever came before any assembly. If a war with our neighbours was to be the result of not acceding, there was no use in debating here; we had better receive their dictates, if we were unable to resist them. The defects of the Old Confederation needed as little proof as the necessity of an Union: But there was no proof in all this, that the proposed Constitution was a good one. Defective as the Old Confederation is, he said, no one could deny but it was possible we might have a worse government. But the question was not whether the present Confederation be a bad one; but whether the proposed Constitution be a good one.

It had been observed, that no examples of Federal Republics had succeeded. It was true that the ancient confederated Republics were all destroyed—so were those which were not confederated; and all antient Governments of every form had shared the same fate. Holland had undoubtedly experienced many evils from the defects in her government; but with all these defects, she yet existed; she had under her Confederacy made a principal figure among the nations of Europe, and he believed few countries had experienced a greater share of internal peace and prosperity. The Germanic Confederacy was not the most pertinent example to produce on this occasion:—Among a number of absolute Princes who consider their subjects as their property, whose will is law, and to whose ambition there are no bounds, it was no difficult task to discover other causes from which the convulsions in that country rose, than the defects of their Confederation. Whether a Confederacy of States under any form be a practicable Government, was a question to be discussed in the course of investigating this Constitution.

He was pleased that thus early in the debate, the honorable gentleman [Robert R. Livingston] had himself shewn, that the intent of the Constitution was not a Confederacy, but a reduction of all the states into a consolidated government. He hoped the gentleman would be complaisant enough to exchange names with those who disliked the Constitution, as it appeared from his own concession that they were Federalists, and those who advocated it Anti-Federalists. He begged leave, however, to remind the gentleman, that Montesquieu, with all the examples of modern and antient Republics in view, gives it as his opinion, that a confederated Republic has all the internal advantages

of a Republic, with the external force of a Monarchical Government.¹² He was happy to find an officer of such high rank recommending to the other officers of Government, and to those who are members of the Legislature, to be unbiassed by any motives of interest or state importance. Fortunately for himself, (he said)^(d) he was out of the verge of temptations of this kind, not having the honor to hold any office under the state. But then he was exposed, in common with other gentlemen of the Convention, to another temptation, against which he thought it necessary that we should be equally guarded:—If, said he, this constitution is adopted, there will be a number of honorable and lucrative offices to be filled, and we ought to be cautious lest an expectancy of some of them should influence us to adopt without due consideration.

We may wander, said he, in the fields of fancy¹³ without end, and gather flowers as we go: It may be entertaining—but it is of little service to the discovery of truth:—We may on one side compare the scheme advocated by our opponents to *golden images, with feet part of iron and part of clay*;¹⁴ and on the other, to *a beast dreadful and terrible, and strong exceedingly, having great iron teeth, which devours, breaks in pieces, and stamps the residue with his feet*.¹⁵ And after all, said he, we shall find that both these allusions are taken from the same *vision*; and their true meaning must be discovered by sober reasoning.

He would agree with the honorable gentleman, that perfection in any system of government was not to be looked for. If that was the object, the debates on the one before them might soon be closed.—But he would observe that this observation applied with equal force against changing any systems—especially against material and radical changes.—Fickleness and inconstancy, he said, was characteristic of a free people; and in framing a Constitution for them, it was, perhaps the most difficult thing to correct this spirit, and guard against the evil effects of it—he was persuaded it could not be altogether prevented without destroying their freedom—it would be like attempting to correct a small indisposition in the habit of the body, by fixing the patient in a confirmed consumption.—This fickle and inconstant spirit was the more dangerous in bringing about changes in the government. The instance that had been adduced by the gentleman from sacred history, was an example in point to prove this: The nation of Israel having received a form of civil government from Heaven, enjoyed it for a considerable period; but at length labouring under pressures, which were brought upon them by their own misconduct and imprudence, instead of imputing their misfortunes to their true causes, and making a proper improvement of their calamities, by a correction of their errors, they

imputed them to a defect in their constitution; they rejected their Divine Ruler, and asked Samuel to make them a King to judge them, like other nations. Samuel was grieved at their folly; but still, by the command of God, he hearkened to their voice; tho' not until he had solemnly declared unto them the manner in which the King should reign over them. "This, (says Samuel) shall be the manner of the King that shall reign over you. He will take your sons and appoint them for himself, for his chariots, and for his horsemen, and some shall run before his chariots; and he will appoint him captains over thousands, and captains over fifties, and will set them to ear his ground,¹⁶ and to reap his harvest, and to make his instruments of war, and instruments of his chariots. And he will take your daughters to be confectionaries, and to be cooks, and to be bakers. And he will take your fields, and your vineyards, and your olive yards, even the best of them, and give them to his servants. And he will take the tenth of your seed, and of your vineyards, and give to his officers and to his servants. And he will take your men servants and your maid servants, and your goodliest young men, and your asses, and put them to his work. He will take the tenth of your sheep: And ye shall be his servants. And ye shall cry out in that day, because of your King which ye have chosen you; and the Lord will not hear you in that day."¹⁷—How far this was applicable to the subject he would not now say; it could be better judged of when they had gone through it.—On the whole he wished to take up this matter with candor and deliberation.

He would now proceed to state his objections to the clause just read, (section 2 of article 1, clause 3.) His objections were comprised under three heads: 1st the rule of apportionment^(e) is unjust; 2d. there is no precise number fixed on below which the house shall not be reduced^(f); 3d. it is inadequate.^(g) In the first place the rule of apportionment of^(h) the representatives is to be according to the whole number of the white inhabitants, with three fifths of all others, that is in plain English, each state is to send Representatives in proportion to the number of free-men, and three fifths of the slaves it contains. He could not see any rule by which slaves are to be included in the ratio of⁽ⁱ⁾ representation: The principle of a representation, being that every free agent should be concerned in governing himself, it was absurd to give that power to a man who could not exercise it—slaves have no will of their own: The very operation of it was to give certain privileges to those people who were so wicked as to keep slaves. He knew it would be admitted that this rule of apportionment was founded on unjust principles, but that it was the result of accommodation; which he supposed we should be under the necessity of admitting, if we meant to be in union with the

Southern States, though utterly repugnant to his feelings. In the second place, the number was not fixed by the Constitution, but left at the discretion of the Legislature; perhaps he was mistaken; it was his wish to be informed. He understood from the Constitution, that sixty-five Members were to compose the House of Representatives for three years; that after that time a census was to be taken, and the numbers to be ascertained by the Legislature on the following principles: 1st, they shall be apportioned to the respective States according to numbers; 2d, each State shall have one at least; 3d, they shall never exceed one to every thirty thousand. If this was the case, the first Congress that met might reduce the number below what it now is; a power inconsistent with every principle of a free government, to leave it to the discretion of the rulers to determine the number of the representatives of the people. There was no kind of security except in the integrity of the men who were entrusted; and if you have no other security, it is idle to contend about Constitutions. In the third place, supposing Congress should declare that there should be one representative for every thirty thousand of the people, in his opinion it would be incompetent to the great purposes of representation (and be very unequal)^(j). It was, he said, the fundamental principle of a free government, that the people should make the laws by which they were to be governed: He who is controlled by another is a slave; and that government which is directed by the will of any one or a few, or any number less than is the will of the community, is a government for slaves.

The next point was, how was the will of the community to be expressed? It was not possible for them to come together; the multitude would be too great: In order, therefore to provide against this inconvenience, the scheme of representation had been adopted, by which the people deputed others to represent them. Individuals entering into society became one body, and that body ought to be animated by one mind; and he conceived that every form of government should have that complexion. It was true that notwithstanding all the experience we had from others, it had not appeared that the experiment of representation had been fairly tried: there was something like it in the ancient republics, in which, being of small extent, the people could easily meet together, though instead of deliberating, they only considered of those things which were submitted to them by their magistrates. In Great Britain representation had been carried much farther than in any government we knew of, except our own; but in that country it now had only a name. America was the only country, in which the first fair opportunity had been offered. When we were Colonies, our representation was better than any that was then known: Since the revolution we had advanced still nearer to perfection.^(k) He considered it

as an object, of all others the most important, to have it fixed on its true principle; yet he was convinced that it was impracticable to have such a representation in a consolidated government. However, said he, we may approach a great way towards perfection by encreasing the representation and limiting the powers of Congress. He considered that the great interests and liberties of the people could only be secured by the State Governments. He admitted, that if the new government was only confined to great national objects, it would be less exceptionable; but it extended to every thing dear to human nature. That this was the case could be proved without any long chain of reasoning;—for that power which had both the purse and the sword, had the government of the whole country, and might extend its powers to any and to every object. He had already observed, that by the true doctrine of representation, this principle was established—that the representative must be chosen by the free will of the majority of his constituents: It therefore followed that the representative should be chosen from small districts. This being admitted, he would ask, could 65 men, for 3,000,000, or 1 for 30,000, be chosen in this manner? Would they be possessed of the requisite information to make happy the great number of souls that were spread over this extensive country?—There was another objection to the clause: If great affairs of government were trusted to a few men, they would be more liable to corruption. Corruption, he knew, was unfashionable amongst us, but he supposed that Americans were like other men; and tho' they had hitherto displayed great virtues, still they were men; and therefore such steps should be taken as to prevent the possibility of corruption. We were now in that stage of society, in which we could deliberate with freedom;—how long it might continue, God only knew! Twenty years hence, perhaps, these maxims might become unfashionable; we already hear, said he, in all parts of the country, gentlemen ridiculing that spirit of patriotism and love of liberty, which carried us through all our difficulties in times of danger.—When patriotism was already nearly hooted out of society, ought we not to take some precautions against the progress of corruption?

He had one more observation to make, to shew that the representation was insufficient—Government, he said, must rest for its execution, on the good opinion of the people, for if it was made in heaven, and had not the confidence of the people, it could not be executed: that this was proved, by the example given by the gentleman, of the Jewish theocracy. It must have a good setting out, or the instant it takes place there is an end of liberty. He believed that the inefficacy of the old Confederation, had arisen from that want of confidence; and this caused in a great degree by the continual declamation of gentlemen of importance against it from one end of the continent to the other,

who had frequently compared it to a rope of sand. It had pervaded every class of citizens, and their misfortunes, the consequences of idleness and extravagance, were attributed to the defects of that system. At the close of the war, our country had been left in distress; and it was impossible that any government on earth could immediately retrieve it⁰; it must be time and industry alone that could effect it. He said he would pursue these observations no further at present,—And concluded with making the following motion:

“*Resolved*, That it is proper that the number of representatives be fixed at the rate of one for every twenty thousand inhabitants, to be ascertained on the principles mentioned in the second section of the first article of the Constitution, until they amount to three hundred; after which they shall be apportioned among the States, in proportion to the number of inhabitants of the States respectively: And that before the first enumeration shall be made, the several States shall be entitled to chuse double the number of representatives for that purpose, mentioned in the Constitution.” [Childs, *Debates*, 16–21]¹⁸

[Differences in *Daily Advertiser* printing]

- (a) Text in angle brackets appears in the *Daily Advertiser*.
- (b) “That gentleman” not “any one” in the *Daily Advertiser*.
- (c) “Separate Government?” not “distinct government;” in the *Daily Advertiser*.
- (d) Text in angle brackets appears in the *Daily Advertiser*.
- (e) “Appointment” not “apportionment” in the *Daily Advertiser*.
- (f) “Consist of” not “be reduced” in the *Daily Advertiser*.
- (g) “Unequal” not “inadequate” in the *Daily Advertiser*.
- (h) “Appointment for” not “apportionment of” in the *Daily Advertiser*.
- (i) “Put as a principle of the” not “included in the ratio of” in the *Daily Advertiser*.
- (j) Text in angle brackets appears in the *Daily Advertiser*.
- (k) “That point” not “perfection” in the *Daily Advertiser*.
- (l) “Relieve them” not “retrieve it” in the *Daily Advertiser*.

SMITH. We shall be able to shew that a General Governmt. may be limited as to Revenue—let us proceed by Paragraphs—

Representatives and direct Taxes

Will the Liberties of the people of this Country be preserved if we adopt this Constitution?—I wish declamation may be left until we have tried the force of Reason—

Why are we alarmed with our defenceless Situation—long Island Exposed to the Ravages of Connect[icut] & Mass.—Western frontiers exposed—

Why say our Governmt. the worst—A Tirany worse than no Governmt.—

True all the ancient Confederated Republicks destroyed—So are all the Ancient Republics not confederated the Ancient Monarchies—

This arose from the wickedness of the People—The Tyrany of her Rulers—

Holand has under all her Defects made a figure among Nations & her People Happy—

The Convulsions in the Germanic Confederacy have princes in it who have the People their Slaves—the Law their will—

The Gentleman [Robert R. Livingston] admits this Constitution is not a Confederated Republic

Montescue says—A Confederated Repub. has all the force of monarchy & the Benefits of Republic—

The Inconven[ien]cies of the difficulties in Republic of a fickle Disposition is better than to subject the People to the will [of] one man or a few men—

The Jewish Theocracy Stated at Large—

When we have investigated the Subject shall be better able to judge how far this applicable to the united States—

This Governmt. was compared to the Image of Brass Iron and Clay—perhaps it is more like the Beast with *Iron Teeth* in the Same Vision—

As to taxes & Representatives—

The Rule of apportionmt. is *unequal & unjust*

The Rule is the white Inhabitants with three fifths of the Slaves—

Slaves have no will of their Own and no Vote—

The free Inhabitants of one State Shall have greater Privileges because they are so wicked as to keep more Slaves than their neighbours—

Repugnant to

2d. The Number of Representatives not fixed in the Constitution

For 3. years 65 to be the number—Then a Census taken—then at the pleasure of the first Legislature how many Representatives provided *each State shall have one* and that they do not exceed one to every 30,000

3d. If 30,000 is the Ratio by which the Representation is fixed it is inadequate to the Business—

The Man is free who acts by his own will vice versa

The like as to Governmts.

Evident that except in Small Districts all Men cannot meet to regulate Governmt. Hence Representation—

When Men form Society if a free governmt. it Should be governed as far as possible with one will—

In G: Britain Representation has gone farther than any where (except this Country) and yet very inadequate—

We cannot be perfect—But we should encrease our Representation and limit the Powers of the Representatives—

As the powers of General Govt. is diminished—So should the Representatives—

The New Constitution embraces every thing that is dear, tho' some small Powers seem left to the State Govts.

The Representatives shold know and Express the will of their Constituents—to do this, they must be chosen in Small Districts—

If the great affairs of Governmt. is trusted to a few men they are more liable to corruption—notwithstanding Virtue during the War, yet Americans are but Men—

Men who Patronize this Constitution redicule the Patriotism of the Heroes of America in the late War—

Governmt. must have the Confidence of the People—or by a Standing Army and executing Laws at the Point of the Bayonet—

Want of Affection has affected our present Governmt.—It was the production of wise and Virtuous Men—Notwithstanding its defects had affection to it been inculcated, instead calling it a Rope of Sand, it might have operated better—The Country was left distressed—and every man distressed or who could not pay his Debts was induced to believe it was chargable on the Government—

This Representation inadequate—The Federal City perhaps a 1000 miles from parts of the Confe[de]ration and cannot have the Confidence of the People, who never Will Submit their Liberties to 65 Men— [McKesson's Notes, NHi]



SMITH. Chancellor's Observations did not apply—thinks the Union of the utmost Importance—not to sacrifice the Liberties of the People—Should avoid Declamation—why told of the defenceless State of our Country—not going to make War—

the present Confederation he admits to be defective—but not obliged to adopt the Constitution Anarchy better than Tyranny—

As to federal Govts. the Conclusion defective Holland has in some Measure succeeded tho' its Govt. more defective than the *present Confederation* the Germanic Govt. not conclusive—despotic *Power* their Ruin—

We should change Names
 Opinion of Montesquieu as to confederate Republics
 Perfection not to be found—but this an Argument that we should not change our present Govt.—
 fickleness of the People not so dangerous as the Tyranny of one Person—
 Sacred Example—
 Description of the proposed King—
 Objections
 To Apportionment of Representation & direct Taxes &ca.
 Heads—
 1. Apportionment unequal & unjust
 2. No precise Number pointed out
 3. Inadequate—
 1. Slaves ought not to be included—have no Will of their own—
 Have no Agency in any State Govt.—
 Matter of Accomodation—& not a turning Point
 2. Number discretionary
 for 3 Years 65 the Number—after that may lessen as well as encrease—no Security but in the Integrity of the Representatives
 3. People make the Laws in a free State—Spontaniety the Test of Freedom—
 People cannot exercise their Power in Person—must have Representatives—
 Representation in Gt. Britain very defective
 Here it may be fairly tried—
 Must encrease the Representation & diminish the Powers
 The Convention had Difficulties—supposed the Govt. extended only to national Powers Objects—but the Case is different—the Sword & Purse extend to every Thing—
 true Representation must express the Sense and Will of the People—
 Should be chosen by small Districts—
 More likely to be corrupt—A different Temper may take Place from what prevailed formerly Spirit of Patriotism already ridiculed—
 Govt. must rest upon the Confidence of the People—*sacred Example* in Point—if this Confidence fails Recourse must be had to the Point of the Bayonet—
 present Constitution would have answered if possessed of public Confidence—Same Observations will extend to the proposed Constitution—
 present Confederation has been declaimed against—

Executions for Debt and Embarassments all charged to the old Govt.—
 New Govt. cannot have the Confidence of the Govt. [i.e., governed]
 on Accot. of the Feebleness of the Representation
 by System—

To be guarded against by a firm & numerous Representation—
 [Richard Harison, Notes, DLC]

* * * * *

ALEXANDER HAMILTON then rose.—Mr. Chairman the honorable Member [Robert R. Livingston], who spoke yesterday, went into an explanation of a variety of circumstances to prove the expediency of a change in our national government, and the necessity of a firm union: At the same time he described the great advantages which this State, in particular, receives from the confederacy, and its peculiar weaknesses when abstracted from the Union. In doing this, he advanced a variety of arguments, which deserve serious consideration. Gentlemen [John Lansing, Jr., and Melancton Smith] have this day come forward, to answer him. He has been treated as having wandered in the flowery fields of fancy;¹⁹ and attempts have been made, to take off from the minds of the committee, that sober impression, which might be expected from his arguments. I trust, sir, that observations of this kind are not thrown out to cast a light air on this important subject; or to give any personal bias, on the great question before us. I will not agree with gentlemen, who trifle with the weaknesses of our country; and suppose, that they are enumerated to answer a party purpose, and to terrify with ideal dangers. No; I believe these weaknesses to be real, and pregnant with destruction. Yet, however weak our country may be, I hope we shall never sacrifice our liberties. If, therefore, on a full and candid discussion, the proposed system shall appear to have that tendency, for God's sake, let us reject it!—But, let us not mistake words for things, nor accept doubtful surmises as the evidence of truth. Let us consider the Constitution calmly and dispassionately, and attend to those things only which merit consideration.

No arguments drawn from embarrassment or inconvenience, ought to prevail upon us to adopt a system of government radically bad; yet it is proper that these arguments, among others, should be brought into view. In doing this, yesterday, it was necessary to reflect upon our situation; to dwell upon the imbecility of our Union; and to consider whether we, as a State, could stand alone. Although I am persuaded this Convention will be resolved to adopt nothing that is bad; yet I think every prudent man will consider the merits of the plan in connection with the circumstances of our country; and that a rejection of the Constitution may involve most fatal consequences. I make these remarks to

shew, that tho' we ought not to be actuated by unreasonable fear, yet we ought to be prudent.

This day, sir, one gentleman [John Lansing, Jr.] has attempted to answer the arguments advanced by my honorable friend; another [Melancton Smith] has treated him as having wandered from the subject: This being the case, I trust I shall be equally indulged in reviewing the remarks which have been made.

Sir, it appears to me extraordinary, that while gentlemen in one breath acknowledge, that the old confederation requires many material amendments, they should in the next deny, that its defects have been the cause of our political weakness, and the consequent calamities of our country. I cannot but infer from this, that there is still some lurking favorite imagination, that this system, with corrections, might become a safe and permanent one. It is proper that we should examine this matter. We contend that the radical vice in the old confederation is, that the laws of the Union apply only to States in their corporate capacity. Has not every man, who has been in our legislature, experienced the truth of this position? It is inseparable from the disposition of bodies, who have a constitutional power of resistance, to examine the merits of a law—This has ever been the case with the federal requisitions—In this examination, not being furnished with those lights, which directed the deliberations of the general government; and incapable of embracing the general interests of the Union, the States have almost uniformly weighed the requisitions by their own local interests; and have only executed them so far as answered their particular convenience or advantage. Hence there have ever been thirteen different bodies to judge of the measures of Congress—and the operations of government have been distracted by their taking different courses: Those, which were to be benefited have complied with the requisitions; others have totally disregarded them. Have not all of us been witnesses to the unhappy embarrassments which resulted from these proceedings? Even during the late war, while the pressure of common danger connected strongly the bond of our union, and incited to vigorous exertions, we have felt many distressing effects of the impotent system. How have we seen this State, though most exposed to the calamities of the war, complying, in an unexampled manner, with the federal requisitions, and compelled by the delinquency of others, to bear most unusual burthens! Of this truth we have the most solemn proof on our records. In 1779 and 1780, when the State, from the ravages of war, and from her great exertions to resist them, became weak, distressed and forlorn, every man avowed the principle which we now contend for; that our misfortunes, in a great degree, proceeded from the want of vigor in

the continental government.²⁰ These were our sentiments when we did not speculate, but feel. We saw our weakness, and found ourselves its victims. Let us reflect that this may again in all probability be our situation. This is a weak State; and its relative station is dangerous. Your capital is accessible by land, and by sea is exposed to every daring invader; and on the North West, you are open to the inroads of a powerful foreign nation. Indeed this State, from its situation, will, in time of war, probably be the theatre of its operations.

Gentlemen have said that the non-compliance of the States has been occasioned by their sufferings—This may in part be true—But has this State been delinquent? Amidst all our distresses, *we* have fully complied. If New-York could comply wholly with the requisitions, is it not to be supposed, that the other States, could in part comply?—Certainly every State in the Union might have executed them in some degree.—But New Hampshire, who has not suffered at all, is totally delinquent: North-Carolina is totally delinquent: Many others have contributed in a very small proportion; and Pennsylvania and New-York are the only states, which have perfectly discharged their Federal duty.²¹

From the delinquency of those States who have suffered little by the war, we naturally conclude, that they have made no efforts; and a knowledge of human nature will teach us, that their ease and security have been a principal cause of their want of exertion.—While danger is distant, its impression is weak, and while it affects only our neighbours we have few motives to provide against it. Sir, if we have national objects to pursue, we must have national revenues. If you make requisitions and they are not complied with, what is to be done? It has been well observed, that to coerce the States is one of the maddest projects that was ever devised. A failure of compliance will never be confined to a single State: This being the case, can we suppose it wise to hazard a civil war? Suppose Massachusetts or any large State should refuse; and Congress should attempt to compel them; would they not have influence to procure assistance, especially from those states who are in the same situation as themselves? What picture does this idea present to our view? A complying state at war with a non-complying state: Congress marching the troops of one state into the bosom of another: This state collecting auxiliaries and forming perhaps a majority against its Federal head—Here is a nation at war with itself. Can any reasonable man be well disposed towards a government which makes war and carnage the only means of supporting itself?—a government that can exist only by the sword? Every such war must involve the innocent with the guilty—This single consideration should be sufficient to dispose every peaceable citizen against such a government.

But can we believe that one state will ever suffer itself to be used as an instrument of coercion? The thing is a dream—It is impossible—Then we are brought to this dilemma: Either a federal standing army is to enforce the requisitions, or the Federal Treasury is left without supplies, and the government without support.—What, Sir, is the cure for this great evil? Nothing, but to enable the national laws to operate on individuals, in the same manner as those of the states do.—This is the true reasoning upon the subject, Sir—The gentlemen appear to acknowledge its force; and yet while they yield to the principle, they seem to fear its application to the government.

What then shall we do? Shall we take the Old Confederation, as the basis of a new system? Can this be the object of the gentlemen? certainly not—Will any man who entertains a wish for the safety of his country, trust the sword and the purse with a single Assembly organized on principles so defective—so rotten? Though we might give to such a government certain powers with safety, yet to give them the full and unlimited powers of taxation and the national forces would be to establish a despotism; the definition of which is, a government, in which all power is centred in a single body.—To take the Old Confederation, and fashion it upon these principles, would be establishing a power which would destroy the liberties of the people—These considerations show clearly, that a government totally different must be instituted. They had weight in the convention who formed the new system. It was seen, that the necessary powers were too great to be trusted to a single body: They therefore formed two branches; and divided the powers, that each might be a check upon the other. This was the result of their wisdom; and I presume that every reasonable man will agree to it. The more this subject is explained, the more clear and convincing it will appear to every member of this body. The fundamental principle of the Old Confederation is defective—We must totally eradicate and discard this principle before we can expect an efficient government. The gentlemen who have spoken to day have taken up the subject of the antient Confederacies: But their view of them has been extremely partial and erroneous: The fact is, the same false and impracticable principle ran through most of the antient governments. The first of these governments that we read of, was the Amphyctionic confederacy. The council which managed the affairs of this league possessed powers of a similar complexion to those of our present Congress. The same feeble mode of legislation in the head, and the same power of resistance in the members, prevailed. When a requisition was made, it rarely met a compliance; and a civil war was the consequence. Those which were attacked called in foreign aid to protect them; and the ambitious

Philip under the mask of an ally to one, invaded the liberties of each, and finally subverted the whole.²²

The operation of this principle appears in the same light in the Dutch Republics. They have been obliged to levy taxes by an armed force. In this confederacy, one large province, by its superior wealth and influence, is commonly a match for all the rest; and when they do not comply, the province of Holland is obliged to compel them. It is observed, that the United Provinces have existed a long time; but they have been constantly the sport of their neighbors; and have been supported only by the external pressure of the surrounding powers. The policy of Europe, not the policy of their government, has saved them from dissolution. Besides, the powers of the Stadtholder have served to give an energy to the operations of this government, which is not to be found in ours. This prince has a vast personal influence: He has independent revenues: He commands an army of forty thousand men.²³

The German confederacy has also been a perpetual source of wars: They have a diet, like our Congress, who have authority to call for supplies: These calls are never obeyed; and in time of war, the Imperial army never takes the field, till the enemy are returning from it. The Emperor's Austrian dominions, in which he is an absolute prince, alone enable him to make head against the common foe. The members of this confederacy are ever divided and opposed to each other. The king of Prussia is a member; yet he has been constantly in opposition to the Emperor. Is this a desirable government?

I might go more particularly into the discussion of examples, and shew, that wherever this fatal principle has prevailed, even as far back as the Lycian and Achæan leagues, as well as the Amphyctionic confederacy; it has proved the destruction of the government. But I think observations of this kind might have been spared. Had they not been entered into by others, I should not have taken up so much of the time of the committee. No inference can be drawn from these examples, that republics cannot exist: We only contend that they have hitherto been founded on false principles. We have shewn how they have been conducted, and how they have been destroyed. Weakness in the head has produced resistance in the members: This has been the immediate parent of civil war: Auxiliary force has been invited, and a foreign power has annihilated their liberties and their name. Thus Philip subverted the Amphyctionic, and Rome the Achæan Republic.²⁴

We shall do well, sir, not to deceive ourselves with the favorable events of the late war. Common danger prevented the operation of the ruinous principle, in its full extent: But since the peace, we have experienced the evils; we have felt the poison of the system in its unmingled purity.

Without dwelling any longer on this subject, I shall proceed to the question immediately before the committee.

In order that the committee may understand clearly the principles on which the general convention acted, I think it necessary to explain some preliminary circumstances.

Sir, the natural situation of this country seems to divide its interests into different classes. There are navigating and non-navigating States—The Northern are properly the navigating States: The Southern appear to possess neither the means nor the spirit of navigation. This difference of situation naturally produces a dissimilarity of interests and views respecting foreign commerce. It was the interest of the Northern States, that there should be no restraints on their navigation, and that they should have full power, by a majority in Congress, to make commercial regulations in favour of their own, and in restraint of the navigation of foreigners—The Southern States wished to impose a restraint on the Northern, by requiring that two thirds in Congress, should be requisite to pass an act in regulation of commerce: They were apprehensive that the restraints of a navigation law, would discourage foreigners, and by obliging them to employ the shipping of the Northern States would probably enhance their freight—This being the case, they insisted strenuously on having this provision engrafted in the constitution; and the Northern States were as anxious in opposing it. On the other hand, the small states seeing themselves embraced by the confederation upon equal terms, wished to retain the advantages which they already possessed: The large states, on the contrary, thought it improper that Rhode Island and Delaware should enjoy an equal suffrage with themselves: From these sources a delicate and difficult contest arose. It became necessary, therefore, to compromise; or the Convention must have dissolved without affecting any thing. Would it have been wise and prudent in that body, in this critical situation, to have deserted their country? No.—Every man who hears me—every wise man in the United States, would have condemned them.—The Convention were obliged to appoint a Committee for accommodation: In this Committee, the arrangement was formed, as it now stands; and their report was accepted²⁵—It was a delicate point; and it was necessary that all parties should be indulged. Gentlemen will see, that if there had not been a unanimity, nothing could have been done: For the Convention had no power to establish, but only to recommend a government. Any other system would have been impracticable.—Let a Convention be called to-morrow—Let them meet twenty times: nay, twenty thousand times; they will have the same difficulties to encounter; the same clashing interests to reconcile.

But dismissing these reflections, let us consider how far the arrangement is in itself entitled to the approbation of this body.—We will examine it upon its own merits.

The first thing objected to, is that clause which allows a representation for three fifths of the negroes. Much has been said of the impropriety of representing men, who have no will of their own.—Whether this be reasoning or declamation, I will not presume to say. It is the unfortunate situation of the Southern States, to have a great part of their population, as well as property in blacks. The regulation complained of was one result of the spirit of accommodation, which governed the Convention; and without this indulgence, no union could possibly have been formed. But, Sir, considering some peculiar advantages which we derive from them, it is entirely just that they should be gratified. The Southern States possess certain staples, tobacco, rice indigo, &c. which must be capital objects in treaties of commerce with foreign nations; and the advantage which they necessarily procure in these treaties, will be felt throughout all the States—But the justice of this plan will appear in another view. The best writers on government have held that representation should be compounded of persons and property. This rule has been adopted, as far as it could be, in the Constitution of New-York—It will however by no means be admitted, that the slaves are considered altogether as property—They are men, though degraded to the condition of slavery—They are persons known to the municipal laws of the states which they inhabit, as well as to the laws of nature.—But representation and taxation go together—and one uniform rule ought to apply to both—Would it be just to compute these slaves in the assessment of taxes; and discard them from the estimate in the apportionment of representatives? Would it be just to impose a singular burthen, without conferring some adequate advantage?²⁶

Another circumstance ought to be considered. The rule we have been speaking of is a general rule, and applies to all the States. Now, you have a great number of people in your State, which are not represented at all; and have no voice in your government: These will be included in the enumeration—not two fifths—nor three fifths, but the whole. This proves that the advantages of the plan are not confined to the southern States, but extend to other parts of the Union.

I now proceed to consider the objection with regard to the number of representatives, as it now stands: I am persuaded the system, in this respect, stands on a better footing than the gentlemen imagine.

It has been asserted that it will be in the power of Congress to reduce the number. I acknowledge, that there are no direct words of prohibition—But, I contend, that the true and genuine construction of the

clause gives Congress no power whatever to reduce the representation below the number, as it now stands. Although they may limit, they can never diminish the number. One representative for every thirty thousand inhabitants is fixed²⁷ as the standard of increase; till, by the natural course of population, it shall become necessary to limit the ratio. Probably at present, were this standard to be immediately applied, the representation would considerably exceed sixty-five: In three years it would exceed a hundred. If I understand the gentlemen, they contend that the number may be enlarged or may not. I admit that this is in the discretion of Congress; and I submit to the committee whether it be not necessary and proper—Still, I insist, that an immediate limitation is not probable; nor was it in the contemplation of the Convention. But, Sir, who will presume to say to what precise point the representation ought to be increased? This is a matter of opinion; and opinions are vastly different upon the subject.—A proof of this is drawn from the representations in the state legislatures.—In Massachusetts, the Assembly consists of about three hundred—In South-Carolina, of nearly one hundred—In New-York there are sixty-five.—It is observed generally that the number ought to be large—Let the gentlemen produce their criterion—I confess it is difficult for me to say what number may be said to be sufficiently large.—On one hand, it ought to be considered, that a small number will act with more facility, system and decision: On the other, that a large one may enhance the difficulty of corruption. The Congress is to consist at first of ninety-one members²⁸—This, to a reasonable man, may appear to be as near the proper medium as any number whatever; at least for the present.—There is one source of increase, also, which does not depend upon any constructions of the Constitution; it is the creation of new states. Vermont, Kentucky, and Franklin, will probably soon become independent: New members of the Union will also be formed from the unsettled tracts of Western Territory. These must be represented; and will all contribute to swell the federal legislature. If the whole number in the United States be, at present, three millions, as is commonly supposed, according to the ratio of one for thirty thousand, we shall have, on the first census, a hundred representatives:—In ten years, thirty more will be added; and in twenty-five years, the number will double: Then, Sir, we shall have two hundred; if the increase goes on in the same proportion. The Convention of Massachusetts who made the same objection, have fixed upon this number as the point at which they chose to limit the representation.²⁹ But can we pronounce with certainty, that it will not be expedient to go beyond this number? We cannot.—Experience alone must determine. This matter may, with more safety, be left to the

discretion of the legislature, as it will be the interest of the larger and increasing states, of Massachusetts, New-York, Pennsylvania, &c. to augment the representation. Only Connecticut, Rhode-Island, Delaware, and Maryland, can be interested in limiting it. We may therefore safely calculate upon a growing representation, according to the advance of population, and the circumstances of the country.

The State governments possess inherent advantages, which will ever give them an influence and ascendancy over the national government; and will forever preclude the possibility of federal encroachments— That their liberties indeed can be subverted by the federal head, is repugnant to every rule of political calculation. Is not this arrangement then, Sir, a most wise and prudent one? Is not the present representation fully adequate to our present exigencies; and sufficient to answer all the purposes of the Union? I am persuaded that an examination of the objects of the federal government will afford a conclusive answer.

Many other observations might be made on this subject, but I cannot now pursue them; for I feel myself not a little exhausted: I beg leave therefore to wa[i]ve for the present the further discussion of this question.³⁰ [Childs, *Debates*, 21–27]



HAMILTON. The Gentleman [Robert R. Livingston] who spoke yesterday has been treated as having dealt in the flowry Fields of Imagination

I agree if this Governmt. is dangerous to the Liberties of the People let us reject it—

Tho No Considerations of Danger should induce us to adopt a Governmt. radically bad—yet it was prudent to weigh those Moti[v]es which might induce us to attend those Considerations which involve public Danger—

The Honorable Members went into General Considerations—

As to the Gentleman [John Lansing, Jr.] who spoke first—

Admits that Amendmts. are necessary to the Confederation

This Confederation is to make Laws or Requisitions which the States are to execute—This radically defective—

If one Govt. is to make a Law and another Governmt. to execute it, they will examine and judge & Deliberate, and that without the Lights the General Govt. had, and in conformity only to their own Interest—

Many are deceived because during the War that Governmt. only gave advice and the Patriotism of the People made them Execute the measures And even then where there was less Danger the Citizens were more Inactive—

In 1779. or 1780 Our Governt. resolved that the federal Governmt. required to be Strengthened—

This State is all over exposed and therefore more peculiarly interested in Strengthening the Genal Government—

Our Distresses were the Greatest by the War—yet we have complied with the requisitions—

The States who suffered most have most complied with the Requisitions

New Hampshire totally delinquent North Carolina totally delinquent—Others much delinquent except Pensilvania & N York—

This arises from their Power to deliberate and their own Interest—

Therefore there must be the Power of preventing delinquency—

Several States will from the Same or Similar Causes be delinquent in a greater or less degree—

Will the other States commence a War—

If Massachussets alone delinquent—would we declare *War*

We [i.e., will] She not obtain the Countenance and Aid of some Smaller State—

Can any Man countenance a Governmt. which is to be supported by War & involve the Innocent & Guilty—

Can one part of a State be bro't forth to coerce another—

It cannot—

Then we must have a new Governt. and enable the National Govt. to operate as the State Governments do or leave the Requisitions to be made—the willing to pay and others to Omit—

Tho' we will give Governmt. a particular Fund for particular purposes is not despotism—

Despotism is to give the Power of the Purse & Sword to one Body—Convention Saw—

That Power must be given to be carried home to Individuals

That Safety required it should not be lodged in one Body

That therefore there must be a Legislative & Judicial—

All the Confederacies that existed Shew that they were impe[rfe]ct where they Acted on Collective Bodies Instances

The Achean League—Subverted by Philip of Macedon—

Dutch Republic—They Collected the Resources of the Provinces by *force*

There the province of Holand alone could compel them—
not the case with any of the united States—

Observed that Dutch Republic has lasted long—

Answer—1st That is owing to its being pressed by foreign Powers—

2d. The Statholder has great Possessions great Powers an army of 40,000

3d In want of a Stat Holder the Province of Holland keep them together—

Germanic Body—The Requisitions of the Diet are never complied with—The Emporer keeps them together in part; but they are continually at War with each other—

It has been contended that the principles we contend for are entirely new—

Answer the Achean League and are Examples like ours as far as they are known—

In the History of Republics the Mischiefs we mention bro't on their Ruin—

The Romans destroyed the Achean League and made those Grecians Vassals of Rome—

Consider the Question before the House—and shew why the Convention have made that Article and that the same was proper—

The Northern and Middle States navigating States

The Southern States planting States—

Interest of the Navigating that there should be no restraints on the general Governmt. as to Laws of Trade—

The Non Navigating States required Restrictions on the Laws of Trade to have 2 3ds.

The Small States found they had gained by an Equal Power with the great States

The Great States that it unjust that the Small States should have an equal Share of Power—But the non Navigating States were willing to gratify the Small States in power to obtain their Interest in the Business of Navigation—

A Committee was appointed to form the mode of Representation where by a Compromise the Present State of Representation as it is in the Constitution was arranged—

That Body had no Power to establish a Governmt. it had only Power to recommend one—

Several of the States were disposed to cultivate Economy and therefore wanted a Small Representation—Others wanted for safety a large one—

Examine How far this Measure is a Proper one—

It is the situation of the So. States to have a great part of their population in Blacks—It is just that property should have a Share in the Representation

They have Tobacco Rice &ca. which make them valuable Confederates to the Northern States—

Without this Compromise they would not confederate.

But Taxes also are to be fixed by this Rule

If they are to [be] taxed for their Numbers, they should be represented—

Also—In the different States many have no Representation in the State Legislature—All these will be represented in the General Legislature—

Pledges himself No Confederation with the federal States can be made without this Article as Stated and to reject it is to dissolve the union—

The necessary Implication is that the *numbers mentioned* shall never be lessend—

Perhaps at present the Ratio would give more than 65 in three years it will give 100 or more—

Admits it is in the discretion of the Legislature to increase the Representation—It is right it should be so—

At first it may be difficult to obtain persons to attend

If govermt. is found useful it will afterwards be more easy to obtain Representatives—

Qu. What is a proper Representation—

A large Assembly more diffuse and difficult

A Smaller Assembly more connected and sooner agreed in their Deliberations—

The present Number is sufficient—Several New State[s] were mentioned which must have Representatives—

in 3 years 100 Members—in 10 years 130 Members besides the Increase of the Senate—in 28 years 200 Members

Massachussets have Stated the Excess they wish to 200—

Experi[en]ce alone must determine what is proper in this Business—

It will be the Interest of every large & every new State must desire to encrease the Representation—

If their Interest it must take Effect—

Combination cannot take place in 3 years nor the State Governments be annihilated—Afterwards the Representation and National Circumstances will encrease together.

Cannot we rely that this Representation is sufficient in the first Instant—

Mentiond

A Numerous Representation to embrace the feelings and Sentiments of the Community—

I shall consider this hereafter—

Smaller States would wish to be gratified in having the Representation as now fixed in hope of Retaining as [much] Power as they Could—The only method was to moderate their Views—

If Gentn. have no more Solid Objection it is our Interest to adopt the Constitution, and infallibly hereafter obtain the object they aim at— [McKesson's Notes, NHi]



HAMILTON. The Govt. is to be rejected if bad.

Not call reasoning. declamation.

Radical defect of the Constitution is, that it operates upon individuals not on States—

This proved from experience.

In the war, patriotism operd. in the room of goverment—on record by Resolutions of both the principle admitted.

Several States will be delinqt. at the same time, and therefore will not coerce—suppose one State, Massa—they wd. associate with other States—Suppose it could be executed. The [Law?] of executg. by war, is unreasonable & destructive of all govt—will fall on the Innocent & guilty alike No way to remedy it for its but to make the goverment oper. on Individuals instead of _____

Despotism where the powers are concentered, in one body whether or [not] elective—

The Convention therefore, found it necessary to divide the powers—

—The Idea given by us of the ancient Leagues partial—the Amphyctionic council the first, much like ours, but supplanted by reason, of the [dispute?] among their members

Holland sometimes, uses force by being the principle one—She is kept together by the force of the pressure of surr[oun]d[in]g Nations—

By the influence of the Stadtholder, who is hered. & commands an Army of 40.000

The Germanic confederacy mistated—it has a diet constantly at war—

Lycean confederacy & The Achæan League, carried home their Laws to the individs. the Gentlemen have not accurately considered—It is not said that because they were destroyed, therefore they are bad—

The arrangement of the system of the Conv. proper—

preliminary observts.

The natural situation of the country divides into navigating the middle & East The nonnavig South—

Great States—

small States—

Two objects pursued—

The navigating insisted on no restraints on navig.

The others insisted upon $\frac{2}{3}$.

The small states, refused to yield equal repre[sentatio]n.

The large contended for it so a contest for power—

Compromise upon the apportionment of represent—or else relinquished doing any thing—

A further reason was Economy—Connect. & Newhampshire again[st] it—

compromise necessary—

Strong reasons for compromise

Impropriety of equal Reps. as applied to States not reasoning

S. States

Never would come on any other principles—

It is just

1. They have pecul. advts. of produce—would give some advantages in treaty—Tobacco—Indigo—Rice—being valuable.

Taxation and represent. go together—

The best writers say property and persons should be comp[ounde]d why should they not be represented according to their property—

A Number of persons are not represented, in your own State Governments—

1st. The clause by obvious construction, fixes the Represen[tatio]n—there will be 100. in three years—they can never decrease but may increase—

It is proper it should be in discretion—

Some difficulty to get persons to go—the more numerous the more difficult—

What is the number necessary

in Mass. 300

in S. Carolina 100

NY— 65.

A very numerous inconv[enien]t less numerous more convt.

the number not easily combd.

or corruption—

This secure—

must increase by N States

Vermont must be ind[ependent].

Kentucky

Franklin—

Western States—

the true spirit they shall be increased—

100 members 3 Years

10 [years]— 130 do

25 [years]— 250 do.

Experience alone will teach what is proper—

The Interest of large States [will?] increase it—Mass. NY. P[ennsylvania]

V[irginia]

all large and new States—no doubt they will increase their number—

Tyranny cannot be immediately estabd. it is visionary—

adequate safe at present [Melancton Smith, Notes, N]



HAMILTON. I Various Interests

Navigating and Non Navigating—

Great and Small—

Struggle for Commercial point *two thirds*

Struggle for equal power—

Some small states non navigating—

Hence tendency to combination

Necessity of accommodation—

Oeconomy—

☞ Relate difficulties on this point

As to the ratios of representation

I Character of slaves mixed persons & property

II In many states persons included in census who have no vote in the state—

III—Representation & Taxation being upon the same scale will favour impartiality

As to the number

I—Three objects

1 safety

2 knowledge of local circumstances

3 few—above the many

Ob: Nothing more difficult than to fix the degree of numbers requisite—constitutions of diff States differ—

- II Ratio ought not to be the same in a large as in a small nation—
- III—first census 100—
 - 25 years— 200
 - fifty— 400

☞ _____
 Knowledge of local circumstances
 I Objects to be considered—
 These COMMERCE TAXATION
 As to taxation state systems—

Elevation of few

- I No qualifications either for electors or elected
 - II 5000 not less fit to choose than 500—not—so easily corrupted—
 - III How would Governor &c be chosen—
-

☞ Numbers will not be augmented
 —Large states to increase influence will be for increasing representatives [Hamilton Papers, DLC]

MELANCTON SMITH. The Gent. [Alexander Hamilton] has taken great pains to shew that it is necessary that the National Governmt. Admitted it must operate in some persons on Individuals— How far must it operate on Individuals— If so far as this the Building superstructure is infinitely too large for the foundation

I did not either intend to be understood that a Governmt. should be strictly federal—Our present Confederation [McKesson’s Notes, NHi]

JOHN LANSING, JR. In our Govt. the Confederates give their Consent without resorting to inferior Bodies—In the Dutch Republic’s they must resort to inferior Bodies for Consent—

I am of opinion with the Gent. from Dutchess [Melancton Smith] the Representat too Small—

It is asserted by the Gent. from N. York [Alexander Hamilton] to be large enough—

Observ. 23 Men can make a Law for 3,000,000 of People—

Observ. The Clause Leaves in the Power of the united States in Congress to keep the Representation where it is—

The General Governmt. may declare that only one hundred thousand men shall send a Representative—

—Some Amendmt. ought to encrease the Representation or at least that it grow Progressively

The Second Massachusetts Amendment read³¹— [McKesson's Notes, NHi]

* * * * *

CONVENTION PROCEEDINGS. Mr. M. Smith, proposed the following Amendment— [McKesson's Notes, NHi]

CONVENTION PROCEEDINGS. The third Paragraph of the 2d Section of the first Article having been read and considered Mr. M. Smith as an Amendment proposed the following Resolution—

Resolved that it is proper that the Number of Representatives be fixed at the Rate of one for every twenty Thousand Inhabitants to be ascertained on the Principles mentioned in the second Section of the first Article of the Constitution until they amount to three hundred, after which they shall be apportioned among the States in Proportion to the Number of the Inhabitants of the States respectively—And that before the first enumeration shall be made, the Several States shall be entitled to chuse double the Number of Representatives for that purpose mentioned in the Constitution

That on June 21st. & 23d. Debates on the same Paragraph were continued— [McKesson Papers, Smooth Copy, NHi]

1. For the "Grand Design" of Henry IV of France, see Convention Debates, 19 June, note 1 (above).

2. In question was the 30 April 1784 grant of power enabling Congress to regulate commerce for fifteen years (CDR, 153–54). A committee of Congress, of which Melancton Smith was a member, reported on 23 October 1786 that all of the states had approved acts granting Congress this power, although New Hampshire and North Carolina had done so in a manner unacceptable to Congress. The committee, however, believed that these two states wanted to give Congress "the necessary powers," and that their failure to modify their acts, at the "urgent recommendation" of Congress, "must be attributed to other reasons than a disinclination in them to adopt measures similar to those of their sister States" (JCC, XXXI, 907–9).

3. Lansing probably refers to Sir William Temple's well-known and well-received publication entitled *Observations upon the United Provinces of the Netherlands* that was first published in London in 1673 and that went through eight English editions by 1747. The incident to which Lansing alludes has not been located, although one passage in particular corroborates his assertion about the significance of the dissent of a single town. In the introductory paragraph to chapter II, "*Of Their GOVERNMENT*," Temple stated: "For as the States-General cannot make War or Peace, or any new Alliance, or Levies of Money, without the consent of every Province; so cannot the States-Provincial conclude any of those points without the consent of each of the Cities, that by their Constitution has a voice in that Assembly" (pp. 75–76).

4. For the Germanic Confederacy, see Convention Debates, 19 June, note 14.

5. In his notes of Lansing's speech, John McKesson differed from Childs's version. McKesson's notes read: "We have no territor[i]al Controversy but with Vermont—we have shewn by Act of Legislature our disposition to Settle that" (below).

6. See the 21 December 1787 letter of Constitutional Convention delegates Robert Yates and Lansing to Governor George Clinton (RCS:N.Y., 455–59).

7. The *Daily Advertiser*, 24 June, printing of this speech has “arises” in place of “aims.” See note 9 (below) for newspaper printings of this speech.

8. Robert R. Livingston’s salary as chancellor was £500 per annum, but the chancellor’s fees were lucrative. An act passed on 18 April 1785 set the following fees for the chancellor: “For the Seal to every common Writ, three Shillings. To Exemplifications, twenty Shillings. Every Decree, two Pounds. Every Opinion or Order on a Petition or Motion controverted and argued in Court, twenty Shillings. Appointing a Guardian, ten Shillings.”

9. Lansing’s speech was first printed by Francis Childs in his *Daily Advertiser*, 24 June, and reprinted in the *New York Journal*, 26 June; *New York Morning Post*, 26 June; *Albany Gazette*, 3, 10(?) July; Lansingburgh *Federal Herald*, 7 July; and *Country Journal*, 8 July. Outside New York, it appeared in the *Pennsylvania Packet*, 27 June; and *Vermont Gazette*, 28 July. For the publication of other speeches delivered on 20 June, see notes 11 and 18 (below). For a significant difference between the versions of Lansing’s speech in the *Daily Advertiser* and Childs, *Debates*, see note 7 (above).

10. Compare to Childs’s version, at note 5 (above).

11. Livingston’s speech was first printed by Childs in his *Daily Advertiser*, 27 June, and reprinted in the *New York Journal*, 28 June, *New York Morning Post*, 28 June, and *Country Journal*, 15 July. Outside New York, it appeared in the *Pennsylvania Packet*, 2 July. For the publication of other speeches delivered on 20 June, see note 9 (above) and note 18 (below). Significant differences between the versions of Lansing’s speech in the *Daily Advertiser* and Childs, *Debates* are indicated by internal footnotes (a) through (g).

12. *Spirit of Laws*, I, Book IX, chapter I, 185.

13. The phrase “fields of fancy” was possibly taken from Joseph Warton’s poem “Ode to Fancy” (1780). The line in this poem reads: “Yet not those flowery fields of joy.” For Alexander Hamilton’s response to this, see at note 19.

14. Daniel 2:31–33.

15. Daniel 7:7.

16. “To ear his ground” means to plow or till his ground (OED).

17. 1 Samuel 8:11–18. Robert R. Livingston raised the matter of the institution of monarchy in Israel in his 19 June speech (at note 2, above).

18. Smith’s speech was first printed by Childs in his *Daily Advertiser*, 27 June, and reprinted in the *New York Journal*, 28 June, *New York Morning Post*, 28 June, *Country Journal*, 15 July, and Lansingburgh *Federal Herald*, 28 July. Outside New York, it appeared in the *Pennsylvania Packet*, 2 July. None of the above newspapers printed the text of Smith’s motion. For the publication of other speeches delivered on 20 June, see notes 9 and 11 (above). Significant differences between the versions of Smith’s speech in the *Daily Advertiser* and Childs, *Debates* are indicated by internal footnotes (a) through (l). De Witt Clinton stated that Smith proposed his amendment after Hamilton spoke. (See Clinton to Thomas Greenleaf, 24 June, below.)

19. See at note 13, and note 13 (above).

20. For New York’s efforts to strengthen the central government, see RCS:N.Y., Vol. 1, pp. xxvi–xxx.

21. For the payment of congressional requisitions by the states, see RCS:N.Y., 14, note 4.

22. For a discussion of Philip of Macedon and ancient Greek leagues and confederacies, see *The Federalist* 18, *New York Packet*, 7 December, written by James Madison, with Hamilton’s assistance (CC:330). See also Rutland, *Madison*, IX, 5–8 (“Notes on Ancient and Modern Confederacies”).

23. For a discussion of the Dutch Republic, see Convention Debates, 19 June, note 24 (above).

24. See note 22 (above).

25. This is a reference to the Grand Committee (a delegate from each state) on representation that the Constitutional Convention appointed on 2 July 1787 (Farrand, I, 516). The report of this committee, the so-called Great or Connecticut Compromise, was accepted on 16 July. Each state's representation in the House of Representatives would be based on population (including three-fifths of the slaves), while each state would have an equal vote in the Senate (*ibid.*, II, 15–16).

26. Hamilton had supported the notion of a three-fifths clause ever since it was first introduced in Congress in the population amendment of 18 April 1783. For this amendment, see CDR, 148–50.

27. Article I, section 2, clause 3, of the Constitution reads: “The Number of Representatives shall not exceed one for every thirty Thousand.” In other words, the ratio is no more than one for every thirty thousand.

28. If all thirteen states ratified the Constitution, the first Congress would consist of 65 representatives and 26 senators.

29. The second amendment to the Constitution recommended by the Massachusetts Convention on 6 February 1788 states: “That there shall be one representative to every thirty thousand persons according to the Census mentioned in the Constitution until the whole number of Representatives amounts to Two hundred” (RCS:Mass., 1469). For the reaction in New York to the Massachusetts Convention's recommendatory amendments, see RCS:N.Y., 751–54.

30. A newspaper report stated that Hamilton spoke for an hour and twenty minutes (*New York Packet*, 24 June, below).

31. See note 29 (above).

Newspaper Reports of Convention Debates, 20 June 1788

New York Journal, 23 June 1788 (excerpt)¹

Extract of a letter from Poughkeepsie, dated June 20.

“... when they proceeded to debate the subject by clauses. No debate ensued until they arrived at the clause relative to the *appointment, and increase of representation*, in which Mr. Lansing, the Chancellor—briefly, Mr. Smith and Mr. Hamilton engaged.—Mr. Smith preceded the argument, on this head, with general observations on the Chancellor's speech of yesterday, in which he corrected him for his *insinuations* relative to the *suggestion of bias* on state officers; took off the force of his observation on the necessity of *adopting the present plan in toto*, and descanted on some historic facts, which he had recited in his speech of yesterday.—He then came to the ground of the argument, and in a clear and argumentative manner, delivered his opinion on that clause, to which Mr. Hamilton replied. Mr. Smith then proposed an amendment, which lies over for consideration until to-morrow.”

1. Reprinted in seven newspapers by 24 July: N.J. (1), Pa. (4), Va. (1), S.C. (1). The first part of this letter extract is printed above under 19 June.

Poughkeepsie Country Journal, 24 June 1788 (excerpt)¹

... The 2d section of the 1st article of the Constitution, gave rise to a very long and interesting debate.—Mr. M. Smith and Mr. Lansing,

were the principal speakers in opposition to the paragraph, and Mr. Hamilton in its defence.—It is not to be expected that we can give our readers the arguments in detail that were used; we can only say that it was attacked on the one side, with much spirit and ingenuity, and advocated on the other, with equal ability and address. On one side it was contended, that the mode of apportionment of the number of representatives in each state by including three fifths of the negroes, was both unequal and unjust—that the number of representatives was too small to be safe, and that we had not sufficient security that the number would ever be increased.

On the other hand it was enforced, that including three fifths of the negroes in the apportionment of the number of representatives, was the result of accommodation with the southern States—that an union with them was never to be expected on any other terms, and that as the negroes were equally considered when taxes were to be assessed, the southern States felt the burden as well as the advantage of them, and that the mode was not therefore partial or unjust.—It was contended also, that the paragraph clearly contemplated a gradual increase in proportion to the population of the country—that the design of the census was for that purpose—that the interest of the majority of the national legislature would lead them to make the requisite increase, and that the total number as it now stands under our present circumstances, and as it would be in a very short time from our rapid increase, would be sufficiently numerous for all the purposes of a good government, and at the same time entirely safe to the liberties of the people.

The debates on this paragraph continued through the course of the week.

1. Reprinted in the *New York Journal* on 27 June. The paragraph immediately preceding these paragraphs is printed above under 19 June.

*New York Packet, 24 June 1788*¹

Extract of a letter from a gentleman in Poughkeepsie, to his friend in this City, dated Saturday, 21st inst.

“So punctual has the attendance of the members of the Convention been, that they made a house on Tuesday, and after settling their plans, for the regular transacting of the business, it was on Thursday opened by the Chancellor [Robert R. Livingston], with an eloquent speech, which lasted one hour. Yesterday the business of the day was opened by Mr. Lansing, with some observations on the Chancellor’s speech. Debates ensued, in which the Chancellor, Mr. Smith and Mr. Lansing, were principals; they then proceeded to read the Constitution. The first

objections were stated by Mr. Smith, with a long and labored introduction. The American Cicero [Alexander Hamilton] then arose, the force of whose eloquence and reasoning were irresistible. The objections that were made vanished before him; he remained an hour and twenty minutes on the floor; after which Mr. Smith, with great candor, got up, and after some explanations, confessed that Mr. Hamilton had, by his reasoning, removed the objections he had made, respecting the apportioning, the representation, and direct taxes. That part of the Constitution with regard to the number of the representatives, is to be the subject of this day's debate.—*Things* seem to wear a favorable aspect—people on the federal side are sanguine; and several of the anti-federal members are not so prejudiced as we feared. Much, however, depends on the conduct of a few GREAT MEN.”

1. This item was reprinted in the Lansingburgh *Federal Herald*, 30 June, and in whole or in part in seventeen newspapers outside New York by 24 July: Vt. (1), N.H. (1), Mass. (6), R.I., (2), Conn. (2), N.J. (1), Pa. (2), Md. (1), S.C. (1).

New York Independent Journal, 25 June 1788 (excerpt)¹

... (On Friday Mr. Lansing answered the chancellor with general remarks, in which he endeavoured to prove that the present confederation is not so totally inadequate to the purposes of our union, as had been represented; that these states are too extensive to be united under the same government, and that the proposed constitution is not calculated to secure the liberties of the people. Mr. Melancton Smith then moved that the committee should proceed to debate upon the constitution by paragraphs; and the first and second sections of the first article were read. The first section and the two first clauses of the second, passed without any objections. Mr. Smith objected to the third clause, which states the principles and proportion of representation in the proposed house of representatives.) After much declamation by way of general remarks, he attempted to prove that slaves should not be represented and that the whole representation is too small. Mr. Smith was answered by Mr. Hamilton, who, in a speech of an hour and a half, stated the reasons which governed the convention in apportioning the representation, proved clearly that the system is as little objectionable in this particular, as can be formed, and assured the committee that the southern states would not accede to any plan of representation which should not allow part of their slaves to be deemed *persons*. No reply was made to Mr. Hamilton's arguments on this clause.

1. The text in angle brackets was reprinted in the *Norfolk and Portsmouth Journal*, 9 July. The Norfolk paper condensed the remainder of the item as follows: “Mr. Smith's arguments were fully confuted by Colonel Hamilton.” The first part of this item is printed above under 19 June.

New York Journal, 27 June 1788¹

Extract of a letter from Poughkeepsie, June 24.

“The constitution was read by paragraphs without any opposition, until the paragraph in the second section of the first article, about the appointment of representatives, and direct taxes, when Mr. M. Smith stated his objections to it in a masterly manner, in a speech of an hour’s length; after making some pertinent and judicious remarks upon the Chancellor’s speech, he was answered by Mr. Hamilton in an elegant speech, [to] which Mr. Melancton Smith and Mr. John Lansing replied: the former proposed an amendment to the paragraph on Saturday, and Monday the same paragraph was still under debate.—His Excellency the President [George Clinton], Mr. M. Smith, Mr. Lansing, Mr. Williams, and Mr. Tredwell, spoke against it—Mr. Hamilton, and Mr. Harrison in favor of it.”

1. Reprinted: *Impartial Gazetteer*, 28 June; *Connecticut Journal*, 2 July; Middletown, Conn., *Middlesex Gazette*, 7 July.

New York Journal, 3 July 1788¹

Convention of New-York.

The proceedings in Convention at Poughkeepsie, in last Thursday’s Journal, were continued to the end of Mr. Lansing’s speech, on the 20th.

On the same day the Chancellor replied to Mr. Lansing with his usual warmth and elegance, and having exculpated himself from the charge of—insinuating that the opposition to the constitution flowed from interested motives—he descanted the constitution in general terms. After the chancellor,

Mr. M. Smith rose; he wished that the constitution might be examined by paragraphs, in the course of which he should offer his objections in order.

The 1st. sect. of art. 1st. was then read and passed over. The second sect. on the apportionment of representatives, direct taxes, &c. being read, Mr. M. Smith again rose, who, in a speech of an hour, stated his objections in a candid and masterly manner. After making some pertinent and judicious remarks upon the chancellor’s speech, he was replied to by Mr. Hamilton in an elegant speech, which was answered by Mr. M. Smith and Mr. Lansing.

1. Reprinted: Lansingburgh *Federal Herald*, 14 July. On 10 July the Boston *Independent Chronicle* reprinted paragraphs 3 and 4. The *Chronicle*’s account was reprinted in the *Salem Mercury*, 15 July, and the Portland, Maine, *Cumberland Gazette*, 17 July.

Private Commentary on the Convention, 20 June 1788

De Witt Clinton to Thomas Greenleaf
*Poughkeepsie, 24 June 1788*¹

I received your letter by Capt. Cooper and some newspapers—for which I am much obliged to you. There is no order of the Convention to engage any newspapers of the Printers. I however suppose that it would neither be unserviceable to you or disagreeable to your friends if you would send a few to the Convention. I cannot take upon myself to send you accurate or long sketches of the speeches delivered—but this I will do—I will transmit to Capt. Tillinghast regularly an account of the proceedings here ~~in this I will be assisted by a friend~~ as particular and accurate as a weak memory will allow. My Motive for writing to Capt. Tillinghast, he will explain to you.—

[A summary of the proceedings of the Convention follows his signature:] on Tuesday the 17th. instant, the Convention Met pursuant to the directions of the Legislature (vide Power's paper of this day)²—on Thursday following, Mr. Oothoudt in the Chair The Honble. Mr. Chancellor Livingston arose and in an hour's speech ushered in the subject of the new Constitution—~~he did not confine himself to any particular part of the~~ with general remarks—and concluded with moving that no question should be taken on the new Constitution until the whole was debated by paragraphs—this proposition was unanimously agreed to with an amendment.³

on Friday [20 June], ~~The Honorable~~ Mr. Lansing ably replied to the Chancellor's speech—The Chancellor made a short answer—The Constitution was read by Paragraphs without any opposition until the paragraph in the 2d section of the 1st. Article about the apportionment of Representatives and direct taxes—When ~~The Honble.~~ Mr. M. Smith stated his objections to it in ~~an able and~~ masterly manner in a speech of an hour's length—after making some pertinent & judicious remarks on the Chancellor's speech—He was answered by Mr. Hamilton in an eloquent speech—to which Mr. Smith and Mr. Lansing replied and the former proposed an amendment to this paragraph

On Saturday [21 June] and Monday [23 June] the same paragraph still under debate—~~Mr. Governor Clinton~~ His Excellency the President, Mr. M. Smith, Mr. Lansing, Mr. Tredwell & Mr. Williams spoke against it—Mr. Jay, Chancellor Livingston, Mr. Hamilton, & Mr. Harrison in favor of it—

and further this deponent saith not.

The Convention meets at 10 in the morning and adjourns at 2 o'clock P.M.—

1. FC, De Witt Clinton Papers, NNC-RB.

2. See the *Country Journal*, 24 June (Mfm:N.Y.)
3. See Convention Debates, 19 June, at note 10, and note 10.

The New York Convention
Saturday
21 June 1788

Convention Debates, 21 June 1788

Convention met pursuant to adjournment.

JOHN WILLIAMS rose and addressed the Chair.—We are now, Sir, said he, to investigate and decide upon a Constitution, in which, not only the present members of the community are deeply interested, but upon which the happiness or misery of generations yet unborn is in a great measure suspended: I therefore hope for a wise and prudent determination. I believe that this country has never before seen such a critical period in political affairs. We have felt the feebleness of those ties, by which the States are held together, and the want of that energy which is necessary to manage our general concerns. Various are the expedients which have been proposed to remedy these evils—but they have been proposed without effect: Though I am persuaded that if the Confederation had been attended to, as its value justly merited, and proper attention paid to a few necessary amendments, it might have carried us on for a series of years; and probably have been in as great estimation with succeeding ages, as it was in our long and painful war; notwithstanding the frightful picture which has been drawn of our situation, and the imputation of all our difficulties to the want of an energetic government. Indeed, Sir, it appears to me, that many of our present distresses flow from a source very different from the defects in the Confederation. Unhappily for us, immediately after our extrication from a cruel and unnatural war, luxury and dissipation overran the country, banishing all that œconomy, frugality and industry, which had been exhibited during the war.

Sir, if we were to reassume our old habits, we might expect to prosper—Let us then abandon all those foreign commodities which have hitherto deluged our country;—which have loaded us with debt, and which, if continued, will forever involve us in difficulties. How many thousands are there daily wearing the manufactures of Europe, when by a little industry and frugality they might wear those of their own country! One may venture to say, Sir, that the greatest part of the goods are manufactured in Europe, by persons who support themselves by our extravagance: And can we believe that a government ever so well

formed can relieve us from these evils? What dissipation is there in the immoderate use of spirits! Is it not notorious that men cannot be hired in time of harvest, without giving them, on an average, a pint of rum per day? So that on the lowest calculation, every twentieth part of the grain is expended on that article; and so in proportion, all the farmer's produce,—And, what is worse, the disposition of eight tenths of the commonalty is such, that if they can get credit, they will purchase unnecessary articles, even to the amount of their crop, before it becomes merchantable. And therefore it is evident that the best government ever devised, without œconomy and frugality will leave us in a situation no better than the present.

Sir, the enormous expence of the article of tea will amount in two years to our whole foreign debt. Much more might be said on this subject; but I fear I have trespassed on your patience already.—The time of the committee would not have been so long taken up, had there not appeared a propriety in shewing that all our present difficulties are not to be attributed to the defects in the Confederation:—And were the real truth known, part of its defects have been used as an instrument to make way for the proposed system:—And whether or not it is calculated for greater emoluments and more placemen, the committee will determine. However, from what has been said, and the mode agreed on for our proceedings, it appears probable, that the system of government under consideration, is preferred before the Confederation:—This being the case, let us examine whether it be calculated to preserve the invaluable blessings of liberty, and secure the inestimable rights of mankind. If it be so, let us adopt it.—But if it be found to contain principles, that will lead to the subversion of liberty—If it tends to establish a despotism, or what is worse, a tyrannical aristocracy, let us insist upon the necessary alterations and amendments.—Momentous is the question, and we are called upon by every motive to examine it well, and make up a wise and candid judgment.

In forming a constitution for a free country, like this, the greatest care should be taken to define its powers, and guard against an abuse of authority. The Constitution should be so formed as not to swallow up the State governments: The general government ought to be confined to certain national objects; and the States should retain such powers, as concern their own internal police. We should consider whether or not this system is so formed, as directly or indirectly to annihilate the State governments—If so, care should be taken to check it in such a manner, as to prevent this effect. Now, Sir, with respect to the clause before us, I agree with the gentlemen from Albany and Dutchess [John Lansing, Jr., and Melancton Smith], who spoke yesterday. (The number of representatives is, in my opinion, too small to

resist corruption. Sir, how guarded is our State Constitution on this head! The number of the senate and house of representatives proposed in the Constitution does not surpass those of our State: How great the disparity, when compared with the aggregate number of the United States! The history of representation in England, from which we have taken our mode, is briefly this—Before the institution of legislating by deputies, the whole free part of the community usually met for that purpose: When this became impracticable by increase of numbers, the people were divided into districts, from each of which was sent a number of deputies for a complete representation of the various orders of citizens within them. Can it be supposed that six men can be a complete representation of the various orders of people of this State?)¹

I conceive too, that biennial elections are a departure from the true principles of democracy. A well digested democracy has advantages over all other forms of government. It affords to many the opportunity of being advanced; and creates that desire of public promotion, and ardent affection for the public weal, which is so beneficial to our country. (It was the opinion of the great *Sidney*, and *Montesquieu*, that annual elections are productive of this effect.)² But as there are more important defects in the proposed Constitution, I shall desist making any further observations at this time.

In order to convince gentlemen it is my sincere intention to accede to this system, when properly amended, I give it as my opinion, that it will be best for gentlemen to confine themselves to certain points which are defective.

Before I conclude, I would only mention, that while on one hand I hope to be endowed with a spirit of moderation through the whole debate, to give way to small matters; yet on the other hand, not to be intimidated by imaginary dangers: For to say that a bad government must be established for fear of anarchy, is in reality saying that we must kill ourselves for fear of dying. [Childs, *Debates*, 28–30]³

—◆—
WILLIAMS. I had not finished I said but a few words will now add
The Confederation tho' not perfect might have carried us on many
years more as it did thro' a painful War—

Our Evils do not arise from the Confederation but from Luxury—
Instances enormous Credits—Diffuse use of spirits Tea &ca
All our difficulties do not arise from the defects of the Confederation—

The New Govt. will be expensive and make room for placemen—
If it will create an Aristocracy or make room for Tirany let us amend
it—

The Genl. Govt. should not absorb the State Govts.

Let us take Care that in its operation it will not annihilate the State Governments—

The No. of Representatives too few to guard agt. Corruption or usurpation

The History of Representation in England—

Can Six Men be an adequate Representation of the people of this State—

We should not depart from annual Election—

It inspires a desire to be worthy of Office and a Love to Country—

I wish to confine the Amendmts. to certain Points which cannot with Propriety be given up— [McKesson's Notes, NHi]



WILLIAMS. answ—want industry œconomy

Placemen provided for—

Amend it aristocratic—tyranical

Shd we absorb state governments

One embrace genl. objs. other interior

Representation too *few*—State govermt

Advantages Democracy—brings people forward— [Robert R. Livingston, Notes, NHi]

* * * * *

MELANCTON SMITH. I had the honor yesterday of submitting an amendment to the clause under consideration, with some observations in support of it. I hope I shall be indulged in making some additional remarks in reply to what has been offered by the honorable gentleman from New-York [Alexander Hamilton].

He has taken up much time in endeavouring to prove that the great defect in the old confederation was, that it operated upon states instead of individuals. It is needless to dispute concerning points on which we do not disagree: It is admitted that the powers of the general government ought to operate upon individuals to a certain degree. How far the powers should extend, and in what cases to individuals is the question. As the different parts of the system will come into view in the course of our investigation, an opportunity will be afforded to consider this question; I wish at present to confine myself to the subject immediately under the consideration of the committee. I shall make no reply to the arguments offered by the hon. gentleman to justify the rule of apportionment fixed by this clause:⁴ For though I am confident they might be easily refuted, yet I am persuaded we must yield this point, in accommodation to the southern states. The amendment therefore proposes no alteration to the clause in this respect.

The honorable gentleman says, that the clause by obvious construction fixes the representation. I wish not to torture words or sentences. I perceive no such obvious construction. I see clearly, that on the one hand the representatives cannot exceed one for thirty thousand inhabitants; and on the other, that whatever larger number of inhabitants may be taken for the rule of apportionment, each state shall be entitled to send one representative. Every thing else appears to me in the discretion of the legislature. If there be any other limitation, it is certainly implied. Matters of such moment should not be left to doubtful construction. It is urged that the number of representatives will be fixed at one for 30,000, because it will be the interest of the larger states to do it. I cannot discern the force of this argument.—To me it appears clear, that the relative weight of influence of the different states will be the same, with the number of representatives at 65 as at 600, and that of the individual members greater. For each member's share of power will decrease as the number of the house of representatives increases.—If therefore this maxim be true, that men are unwilling to relinquish powers which they once possess, we are not to expect that the house of representatives will be inclined to enlarge the numbers. The same motive will operate to influence the president and senate to oppose the increase of the number of representatives; for in proportion as the weight of the house of representatives is augmented, they will feel their own diminished: It is therefore of the highest importance that a suitable number of representatives should be established by the constitution.

It has been observed by an honorable member [Alexander Hamilton], that the eastern states insisted upon a small representation on the principles of œconomy.—This argument must have no weight in the mind of a considerate person. The difference of expence, between supporting a house of representatives sufficiently numerous, and the present proposed one would be about 20 or 30,000 dollars per annum. The man who would seriously object to this expence, to secure his liberties, does not deserve to enjoy them. Besides, by increasing the number of representatives, we open a door for the admission of the substantial yeomanry of your country; who, being possessed of the habits of œconomy, will be cautious of imprudent expenditures, by which means a much greater saving will be made of public money than is sufficient to support them. A reduction of the number of the state legislatures might also be made, by which means there might be a saving of expence much more than sufficient for the purpose of supporting the general legislature.—For, as under this system all the powers of legislation relating to our general concerns, are vested in the general

government, the powers of the state legislatures will be so curtailed, as to render it less necessary to have them so numerous as they now are.

But an honorable gentleman [Alexander Hamilton] has observed that it is a problem that cannot be solved, what the proper number is which ought to compose the house of representatives, and calls upon me to fix the number. I admit this is a question that will not admit of a solution with mathematical certainty—few political questions will—yet we may determine with certainty that certain numbers are too small or too large. We may be sure that ten is too small and a thousand too large a number—every one will allow that the first number is too small to possess the sentiments, be influenced by the interests of the people, or secure against corruption: A thousand would be too numerous to be capable of deliberating.

To determine whether the number of representatives proposed by this Constitution is sufficient, it is proper to examine the qualifications which this house ought to possess, in order to exercise their powers discreetly for the happiness of the people. The idea that naturally suggests itself to our minds, when we speak of representatives is, that they resemble those they represent; they should be a true picture of the people; possess the knowledge of their circumstances and their wants; sympathize in all their distresses, and be disposed to seek their true interests. The knowledge necessary for the representatives of a free people, not only comprehends extensive political and commercial information, such as is acquired by men of refined education, who have leisure to attain to high degrees of improvement, but it should also comprehend that kind of acquaintance with the common concerns and occupations of the people, which men of the middling class of life are in general much better competent to, than those of a superior class. To understand the true commercial interests of a country, not only requires just ideas of the general commerce of the world, but also, and principally, a knowledge of the productions of your own country and their value, what your soil is capable of producing[,] the nature of your manufactures, and the capacity of the country to increase both. To exercise the power of laying taxes, duties and excises with discretion, requires something more than an acquaintance with the abstruse parts of the system of finance. It calls for a knowledge of the circumstances and ability of the people in general, a discernment how the burdens imposed will bear upon the different classes.

From these observations results this conclusion that the number of representatives should be so large, as that while it embraces men of the first class, it should admit those of the middling class of life. I am convinced that this Government is so constituted, that the representatives

will generally be composed of the first class in the community, which I shall distinguish by the name of the natural aristocracy of the country. I do not mean to give offence by using this term. I am sensible this idea is treated by many gentlemen as chimerical. I shall be asked what is meant by the natural aristocracy—and told that no such distinction of classes of men exists among us. It is true it is our singular felicity that we have no legal or hereditary distinctions of this kind; but still there are real differences: Every society naturally divides itself into classes. The author of nature has bestowed on some greater capacities than on others—birth, education, talents and wealth, create distinctions among men as visible and of as much influence as titles, stars and garters. In every society, men of this class will command a superior degree of respect—and if the government is so constituted as to admit but few to exercise the powers of it, it will, according to the natural course of things, be in their hands. Men in the middling class, who are qualified as representatives, will not be so anxious to be chosen as those of the first. When the number is so small the office will be highly elevated and distinguished—the stile in which the members live will probably be high—circumstances of this kind, will render the place of a representative not a desirable one to sensible, substantial men, who have been used to walk in the plain and frugal paths of life.

Besides, the influence of the great will generally enable them to succeed in elections—it will be difficult to combine a district of country containing 30 or 40,000 inhabitants, frame your election laws as you please, in any one character; unless it be in one of conspicuous, military, popular, civil or legal talents. The great easily form associations; the poor and middling class form them with difficulty. If the elections be by plurality, as probably will be the case in this state,⁵ it is almost certain, none but the great will be chosen—for they easily unite their interest—The common people will divide, and their divisions will be promoted by the others. There will be scarcely a chance of their uniting, in any other but some great man, unless in some popular demagogue, who will probably be destitute of principle. A substantial yeoman of sense and discernment, will hardly ever be chosen. From these remarks it appears that the government will fall into the hands of the few and the great. This will be a government of oppression. I do not mean to declaim against the great, and charge them indiscriminately with want of principle and honesty.—The same passions and prejudices govern all men. The circumstances in which men are placed in a great measure give a cast to the human character. Those in middling circumstances, have less temptation—they are inclined by habit and the company with whom they associate, to set bounds to their passions and

appetites—if this is not sufficient, the want of means to gratify them will be a restraint—they are obliged to employ their time in their respective callings—hence the substantial yeomanry of the country are more temperate, of better morals and less ambition than the great. The latter do not feel for the poor and middling class; the reasons are obvious—they are not obliged to use the pains and labour to procure property as the other.—They feel not the inconveniences arising from the payment of small sums. The great consider themselves above the common people—entitled to more respect—do not associate with them—they fancy themselves to have a right of pre-eminence in every thing. In short, they possess the same feelings, and are under the influence of the same motives, as an hereditary nobility. I know the idea that such a distinction exists in this country is ridiculed by some—But I am not the less apprehensive of danger from their influence on this account—Such distinctions exist all the world over—have been taken notice of by all writers on free government—and are founded in the nature of things. It has been the principal care of free governments to guard against the encroachments of the great. Common observation and experience prove the existence of such distinctions. Will any one say, that there does not exist in this country the pride of family, of wealth, of talents; and that they do not command influence and respect among the common people? Congress, in their address to the inhabitants of the province of Quebec, in 1775, state this distinction in the following forcible words quoted from the Marquis Beccaria. “In every human society, there is an essay [i.e., effort] continually tending to confer on one part the height of power and happiness, and to reduce the other to the extreme of weakness and misery. The intent of good laws is to oppose this effort, and to diffuse their influence universally and equally.”⁶ We ought to guard against the government being placed in the hands of this class—They cannot have that sympathy with their constituents which is necessary to connect them closely to their interest: Being in the habit of profuse living, they will be profuse in the public expences. They find no difficulty in paying their taxes, and therefore do not feel public burthens: Besides if they govern, they will enjoy the emoluments of the government. The middling class, from their frugal habits, and feeling themselves the public burdens, will be careful how they increase them.

But I may be asked, would you exclude the first class in the community, from any share in legislation? I answer by no means—they would be more dangerous out of power than in it—they would be factious—discontented and constantly disturbing the government—it would also be unjust—they have their liberties to protect as well as

others—and the largest share of property. But my idea is, that the Constitution should be so framed as to admit this class, together with a sufficient number of the middling class to controul them. You will then combine the abilities and honesty of the community—a proper degree of information, and a disposition to pursue the public good. A representative body, composed principally of respectable yeomanry is the best possible security to liberty.—When the interest of this part of the community is pursued, the public good is pursued; because the body of every nation consists of this class. And because the interest of both the rich and the poor are involved in that of the middling class. No burden can be laid on the poor, but what will sensibly affect the middling class. Any law rendering property insecure, would be injurious to them.—When therefore this class in society pursue their own interest, they promote that of the public, for it is involved in it.

In so small a number of representatives, there is great danger from corruption and combination. A great politician has said that every man has his price:⁷ I hope this is not true in all its extent—But I ask the gentlemen to inform, what government there is, in which it has not been practised? Notwithstanding all that has been said of the defects in the Constitution of the antient Confederacies of the Grecian Republics, their destruction is to be imputed more to this cause than to any imperfection in their forms of government. This was the deadly poison that effected their dissolution. This is an extensive country, increasing in population and growing in consequence. Very many lucrative offices will be in the grant of the government, which will be the object of avarice and ambition. How easy will it be to gain over a sufficient number, in the bestowment of these offices, to promote the views and purposes of those who grant them! Foreign corruption is also to be guarded against. A system of corruption is known to be the system of government in Europe. It is practised without blushing. And we may lay it to our account it will be attempted amongst us. The most effectual as well as natural security against this, is a strong democratic branch in the legislature frequently chosen, including in it a number of the substantial, sensible yeomanry of the country. Does the house of representatives answer this description? I confess, to me they hardly wear the complexion of a democratic branch—they appear the mere shadow of representation. The whole number in both houses amounts to 91—Of these 46 make a quorum; and 24 of those being secured, may carry any point. Can the liberties of three millions of people be securely trusted in the hands of 24 men?⁸ Is it prudent to commit to so small a number the decision of the great questions which will come before them? Reason revolts at the idea.

The honorable gentleman from New-York [Alexander Hamilton] has said that 65 members in the house of representatives are sufficient for the present situation of the country, and taking it for granted that they will increase as one for 30,000, in 25 years they will amount to 200. It is admitted by this observation that the number fixed in the Constitution, is not sufficient without it is augmented. It is not declared that an increase shall be made, but is left at the discretion of the legislature, by the gentleman's own concession; therefore the Constitution is imperfect. We certainly ought to fix in the Constitution those things which are essential to liberty. If any thing falls under this description, it is the number of the legislature. To say, as this gentleman does, that our security is to depend upon the spirit of the people, who will be watchful of their liberties, and not suffer them to be infringed, is absurd. It would equally prove that we might adopt any form of government. I believe were we to create a despot, he would not immediately dare to act the tyrant; but it would not be long before he would destroy the spirit of the people, or the people would destroy him. If our people have a high sense of liberty, the government should be congenial to this spirit—calculated to cherish the love of liberty, while yet it had sufficient force to restrain licentiousness. Government operates upon the spirit of the people, as well as the spirit of the people operates upon it—and if they are not conformable to each other, the one or the other will prevail. In a less time than 25 years, the government will receive its tone. What the spirit of the country may be at the end of that period, it is impossible to foretell: Our duty is to frame a government friendly to liberty and the rights of mankind, which will tend to cherish and cultivate a love of liberty among our citizens. If this government becomes oppressive it will be by degrees: It will aim at its end by disseminating sentiments of government opposite to republicanism; and proceed from step to step in depriving the people of a share in the government. A recollection of the change that has taken place in the minds of many in this country in the course of a few years, ought to put us upon our guard. Many who are ardent advocates for the new system, reprobate republican principles as chimerical and such as ought to be expelled from society. Who would have thought ten years ago, that the very men who risked their lives and fortunes in support of republican principles, would now treat them as the fictions of fancy?—A few years ago we fought for liberty—We framed a general government on free principles—We placed the state legislatures, in whom the people have a full and fair representation, between Congress and the people. We were then, it is true, too cautious; and too much restricted the powers of the general government. But now it is proposed to go

into the contrary, and a more dangerous extreme; to remove all barriers; to give the New Government free access to our pockets, and ample command of our persons; and that without providing for a genuine and fair representation of the people. No one can say what the progress of the change of sentiment may be in 25 years. The same men who now cry up the necessity of an energetic government, to induce a compliance with this system, may in much less time reprobate this in as severe terms as they now do the confederation, and may as strongly urge the necessity of going as far beyond this, as this is beyond the Confederation.—Men of this class are increasing—they have influence, talents and industry—It is time to form a barrier against them. And while we are willing to establish a government adequate to the purposes of the union, let us be careful to establish it on the broad basis of equal liberty. [Childs, *Debates*, 30–35]

◆

SMITH. I yesterday offered an amendmt. as to Representatives—
Cursory observations on the observations on a Gent from N York
(Mr Hamilton)

The Question is How far this Govt. shall operate on Individuals and how it can be properly restrained—

I had no Intention to torture the Clause—I think my Construction of the Clause a fair & proper one—It should therefore be amended to bear the Construction *only* which he contends for—

There is nothing to assure us that the Representation shall exceed 1 to 65

The larger States cannot be under any Influence to encrease the Representation because whatever is the *Ratio* their relative proportion of power will be the same and the less Power or Influence will every Member individually—

The fondness of Power in hum[an] Nature will prevent it—

It cannot be done without the Consent of Senate—The[y] will not consent to lessen the Power of their own Body—

The like as to the President—He can more easily influence 65 Men than a greater No.

It may the Assembly originate Money Bills

The Argumt. Economy—

He does not deserve Liberty who would refuse to support a Representation to preserve it—

The Yeomanry of a Country the most frugal of Money

One Extravagant useless grant

Congress have expended in grants to Officers who did little Service⁹—

What is a proper Representation

This cannot be ascertained with Mathematical Certainty

It can be ascertained as well as other Matters of policy—

The Representat. of this State will be Eight¹⁰—

There cannot be a Representation equal to the Knowledge & Care of this Continent—

The Govt. is extended to objects which they cannot exercise

Can we have Representatives who can tax Georgia & the new Western Country

Admitted we must give them the Power to regulate Trade—

This will require Men of great abilities and Reading—

Taxation requires men acquainted with the midling Ranks & paths of Life.

This Govt. will always be filled by the natural Aristocracy of the Country

Our Eyes and Senses show us there is such a Distinction among Men—

Property Learning Abilities will produce this Distinction

Fortune & Property will have weight with the Com[mon] People whether the Laws & Constitut sanction it or not—

Happiness that the Laws of this Country do not make Distinctions of Men—but Distinction still subsists—

Does not this Constitution tend to Encrease this Distinction—

The Man the most eminent will have the Voice of the People—

Power in so few Hands will render their Offices Honorable

Men bred in the middling walks of Life will decline the Offices as irksom to them and disagreeable

The House of Representatives will have no features of a Democratic Body—

I will not offend Men of the first Rank—

Men of the middling walks of Life are of better morrals—Their Circumstances tend to keep them so—

Men of Wealth have the Means & are under greater Temptations—

Men of Wealth cannot feel the Burthens of the Poor—

They are more liable to profusion—and do not feel the w[e]ight of Taxes—

If they give with one Hand, they take back 10 times as much with the other—

A Representation must embrace a Solid Phala[n]x of Representatives taken from the yeomanry of the Country—

Take in

Without a democratic Branch possesses the Shaddow w[i]t[h]out the Substance—

It was said the Representation will encrease—This admits it is now too Small—

This ought [not] to be left to men who if they encrease the Representatn they diminish their own Power—

Gent Supposes no danger can arise in 25 years—

A Govt. will tend to form the Spirit of the People or change it—

The Spirit of many of the People are already Changed—

Some Men say Republican Principles are Ideal & Chimerical—

Are we to suppose that any Set of Men having power will not extend and retain it—

A few years ago with over Caution we formed a Govt. which would not suffer them to take a Shilling but thro the State Govts.

Now we are going to leave them without Controul—

They may Slowly change retain the form of a free Govt. when the Substance is gone—

If your Represent[atives] are of the yeomanry of the Country they must save themselves & therefore the Poor—

If you depart from that Representation is only a Name—

Exposedness of so Small a Body to Corruption

Not altogether True Every Man has his Price—

To[o] often So.

Corruption has done more to destroy Republic's than all other Things

This Country will have many lucrative offices

A majority of one half 24 men—Corrupt these and you destroy the Liberties of 3,000[,]000 of People—

If in 3 years 126—you trust 32 or 33 men—

In 20 years add 10 or 12 more—

Gent. says there is a great dissimilarity in the Number of Representatives of the States—

The Represent. amt. about 1500—here 90 or 91 Men—

Keep 1500 Men to make Road Laws and trust 91 with every thing sacred—

Encrease the Representation and limit their Powers—

After all it will be but an Experimt.

If all govt. defective—Experimts. should be made with Cautions—

Liberty given away to Rule[r]s has seldom been recov[er]ed—
[McKesson's Notes, NHi]



SMITH. Admits operation on individuals proper—question as to extend [i.e., extent]—

Dubious construction shd be amended.

Great States no interest in encreasing representation—relative proportion same—

Interest individuals in Legisla to keep it low

Senate & President dominant their share of power—

Economy no weight—expencc Representatives always triffling

Yeomanry saving.

Congress wasted money—

Impossible to get a proper representation—

Powers extended to objects for which government can not be competent—

[Here?] different classes necessary

Represent[at]ion consist of natural aristocracy—

Gent. [of] abilities endeavoring to mislead people on this ground

Difference *capacities education*—

Fortune taken notice of by the common people—

Distinctions as real here as in other countries tho no orders—

Constitution only embrace their class—People prefer such men—

Rich unite interest—a man of abilities chosen—

Men talents & abilities to seek it being few—lower classes not chuse to go—

Eminent characters always governors shd. be so checked—

Representatives not democratic

Men in lower classes—temperate & better than rich men—

Rich not have feeling for poor—

Where they govern more proper

Rich decide what the public expend

Spirit governmt. may change in less 25 years—Advocates for this constitution *ridicule* republican government—

Genl. *government* confined to requisitions—

Government form system injurious Liberty.

Only security large representation

Exposed to corruption—every man his price—

Greecian government destroyed by corruption—

24 men sufficient

Lowest state in union 10 times more than Representation union—

Give power no way to get it back

[NB: favors ambition?] [Robert R. Livingston, Notes, NHi]



SMITH. Corruption

Every man has his Price—

Corruption destroyed the Grecian Republics—

Offices the Engines of Corruption—

24 Men only to be corrupted to destroy the Liberties of the People—

Example of the States Legislatures shews that a more numerous Legislature is proper—

The Constitution an Experiment

Dangerous to go the Lengths of this Constitution—should proceed by Degrees—cannot take Power back— [Richard Harison, Notes, DLC]

SMITH. It is needless to dispute concerning points on which we do not disagree—

It is admitted that it will be proper to extend the powers of the govern. to individuals in cert. cases—how far their powers should extend and in what cases to individuals is the question—I shall make no remarks upon the Argt. offered to prove the justness of the mode of apportionment, for though I am convinced they are easily refuted yet as I am convinced we must yield to it I shall say no more abt. it—It is said that the clause by obvious construction fixes the representation—I should be sorry to be suspected, of torturing words or sentences—If the construction is obvious I cannot perceive it—I see no limitation in the power but 30,000 on the one hand and one for a State on the other—If there is any other limitation it is implied—matters of such moment should not be left doubtful—

It is contended, the Rep. will be increased to one for 30,000—but it is admitted it is at the discretion of the Leg.—It may not—a matter of this importance too important to be left at discretion—

1st. because it will be the Interest of the larger States, to increase them—But will it be the Interests of the Represents—have the States controul in the matter—besides it is not the Interests of the States—65 Repres. apportioned according to numbers, gives a state precisely the same relative weight as if they were ever so much larger—

The Interest of the Senate will be against it. If we rely upon the power of the house to withhold supplies—it will be vain, for they lose their own Salaries if they do—

2d. Oeconomy—This of all Argt. is the least w[igh]t The difference will be trifling—perhaps abt. 20,000 Dolls. a Year in the US—Can such a trifling expence be seriously thought of by any one who seriously regards liberty—It may be saved by reducing the State Legislat. besides

ultimly it may be a sav[in]g by prom[otin]g Oeconomy—But it [is] asked what is the proper number—This is said to be a problem wch. cannot be solved—I admit this question is so far prob. as not to admit of a solution with matheml. certainty—yet may with certainty declare that certain numbers are either too large or too small—every one will allow ten too little—or 1000 too great—The first could not possess the sentiments or be influenced by the feelings of the people—whether 2 or 300 is the proper no. to set out with or a less number whether the increase should be limited to 4 or 500 or a greater or less number must in some measure be matter of Opinion—But still it must be admitted, that 20. wd. be a number so small as to be neither a just nor safe repres— I think it equally clear tht 65 is not—

1st. they cannot be acq[uainte]d sufficiently wt.—Commercial knowledge requires very extensive information, of the general commerce of the world, and the relation it bears between diff. nations & Countries—

It requires also a minute knowledge of the productions, and value of our own Country—what it is capable of producing—the nature of your manufactures, and the Capacity of the country to increase both—

The first kind of knowledge is with men of education, rank leisure & fortune—

the 2d. resides in a greater degree in the midd[lin]g class—

Taxation, excise & duties require a still more minute knowledge—the ability of the common people—the easiest mode of raising money

The same observations will equally apply to almost every power in this govt. that reaches to internal matters—

It follows the representation shd. be so large, as that while it admits men of the first class, it embraces a number of the middg class—

This govt. will be exercised only by men of the first class & the natural aristocracy of the Cou[ntr]y—and if so will be destitute both of the information and sympathy necessary—

It may be asked, what is meant by the natural aristocracy of the Country & said there is no distinct[io]n.

It is true it is our singular felicity that we have no hered[itar]y distinctions—

But still there is real distinctions—

Every comm[unit]y naturally divides itself into classes—

The author of Nature has given to some greater capacities than to others—

Some have better oppurtunities than others or made better use

A great difference in property—

In some all unite—

Men of middling class who are qualified will be averse to be chosen—not agreeable to be placed, where none of our own rank to associate wt.

Men of middling fortunes cannot afford living in the high Stile of arist[ocrat]s

30, or 40,000, cannot unite, frame your election Laws as you please—If they do, it must be in some one of conspic[u]ous, military civil, popular or legal talents—

If the Election is by plurality as it is in most of the States and probably will be in this—It is almost certain none but the great will be chosen—their influence will unite—the common people will divide—and their divisions promoted—

No chance for any other unless some popular demagogue—who are generally dest[itute] of prin[cip]l[e]—A substantial yeoman, of sense & discernmt. never can be e[lecte]d—

The same motives & ruino[us] principles would operate as in the choice of a gov. From these remarks it appears th[at] the governt. will fall in the hands of the great—& will be that of the few—

This will tend to oppress—

I shall not declaim against the Characters of the great—and charge them indiscriminately with want of principle honesty or a disposition to oppress—The same passions and prejudices govern in all—

The circumstances in wch. men are placed in great measure give a cast to the human character—

A man in middling circumstance—has le[ast] temptat[io]n—The wise man prays for neither riches nor poverty—

He is inclined by habit and the company he keeps to set bounds to his appetites—

If this is insufficient, the want of means to restrain them, will do it—hence substantial yeomen, are more temper[ate] of better moral Characters & have less ambition, than the great—

Great men do not generally feel for the mid[dlin]g & poor—to call upon me to prove this wd be like calling upon me to prove, that they had any feeling—common observation & experience proves it—The reasons of it are obvious—They know not the pains and labour this class must be at to procure property—

The distresses they may suffer, by being called upon to pay a small sum—

They consider the common people as a species of people below them—and hence are apt to

There [i.e., They] will always form a distinct class & associate together—

They have feelings diff. from the com people
 —consider themselves above them
 —be more ambitious
 —command more respect—
 —They are under the influence of the same motives as those who
 are placed in high Stations by her[e]d[itar]y right

The Idea of such an order rid[icu]l[ed] by some—Said not to exist
 here and cannot—

that property is equally distribd & always will be—

because our Laws of descent equally distribute it—

I am not the less apprehensive, at hearing it denied—for it is evi-
 dently founded in the nature of things—

unreasonable jealousies may be entertd—but suffic[ien]t caution
 shd. be observed—

Common observ. proves such a distinct—human Laws & forms of
 govtmt. create dis[tinctions]—So does birth, nature, education, for-
 tune & talents—

The same are by Stars & Garters & other visible tokens—

The latter by the more indelible marks of talents abilities affluence
 & great public respect

I appeal to experience—

The reality of such distinct. stated in the strongest manner by all
 writers on govt—

The address to the Inhs. of Quebec—“In every human Society says
 the celebrated Marquis Beccaria, there is an essay [i.e., effort] contin-
 ually tending to confer on one part the height of power and happiness
 and to reduce the other to the extreme of weakness & misery—The
 intent of good Laws is to oppose this effort and to diffuse their influ-
 ence universally and equally—[”]

Men of the first class will be the first to fill places—for the same
 reason that they become so—

they command more respect—

have more influence & this is more easily & firmly united

In any district containg 30,000 Inh. the choice will almost always fall
 on one of that class—

upon some eminent character highly elevated above the midg.
 class—

The extensive powers in few hands will render the office highly hon-
 orable—the object of great ambition—will be sought by the great with
 avidity [Melancton Smith, Notes for Speech, N]



SMITH. In most pol. opinions there will be variant opinions amongst men of understg.—Each will support their sentiments in the best manner their abilities will enable them—It frequently happens that superior talents are engaged on the one side against plain common sense on the other—But no abilities can change the nature of things—or make truth falshood or the contrary—Every man who will think for himself, will weigh the arguments offered on both sides, and judge for himself—He will strip them of the verbage with which they are clothed, and seperate them from the ~~artful~~ specious forms they may assume & from the agreeable manner in which they are presented—and careful examine whether they point to the object, or to something else—It will have no weight wt him, for a person to charge those who differ from him, *with having wrong Ideas—that it is high time we shd. reason right—That his opinions are contrary to that of all writers & reasoners on the subject—that talking of danger to Liberty is mere verbage—that to a mind no[t] predisposed, his Arguts. are conclusive—that his apprehensions of danger to Liberty is fanciful*—These and every thing of that Kind will pass wt. a man who reasons for himself as mere verbage—There is no reason to use this method on the part of those who advocate the Const—because if truth is on their side, they have ability & skill to support it, by fair reasoning—many of them have been in the habit of public speaking—and are [– – –] for their talents—It gives room to suspect, their cause not very good, when the ablest men in advocacy. abound in such assertn instd. of Argt.—

An hon. Gent. yesterday. fm. NY. Mr. H. offered a variety of com. to justify the clause—

1. He asserted, that there is no danger to trust rulers in Repubs. with unlimitd. power—

The Idea that it was peculiar to the present times—

This govt. a Republic wt. the proper checks—and therefore, might be safely trusted wt. un[imite]d powers of taxation—

It is a new Idea to me, that the power of Republics need not be restricted—

But the question is, are there reasonable checks proper for Republics

2. Is the power in question necessary—

With respect to the first, I have already stated my reasons for bel[ievin]g that the Representn. was inadequate for security.—I need not repeat them—The honl. Gen. has himself sd. he will not be positive it will be at present—but supposes in 28 years it will—He is not positive then that we shall have an adequate and conseq[uentl]y a secure repres. for 28 years—It will be time enough then to grant the powers—

he says we cannot fix wht. is an adequate repre—this has been ansd— it is little better than trifling—

That in a free Republic—it is governed by its own will—that the design of Representn. is to collect the will of the people—that the Rep. should be so apportioned and fixed as will be the most likely to collect & express their will—are principles equally plain to common sense and universally advanced by all writers on go[vernmen]t—It is unclear that the more the Repres. resemble the people, the more likely they will be to declare their will—and the smaller the proport. of Rep. the less will be the resemb[lan]ce—the more numerous the more interested—by connect[ion]s—by feeling what the[y] cannot fix as certain the exact point repeated—

The Idea of authors sd. to be misrepresented respectg. the extent of Republics—It is not—they say large countries can only be gov'd. by Despotic—This the sentiment of gentn. in the Convention Wilson's speech & stated as a reason that operated there¹¹

—The Idea of the more extensive a Republic the better, a new one— not justifi'd by example—

The gent. supposes 60 or 80—suff. to guard agt. corruption & combination—

If the voice of 24 Men, are likely to express the will of the people of America¹²—If there is reasonable ground for security, that they will pursue the public Interest—That they will not be biassed by selfish & separate Int[er]est—That they will not be in danger of forming combinations, to share among them the emol[ument]s of govt.—then is the Repres. adequ[a]t[e]—at present—

If it be probable that one Rep. for 30,000—will suffy. understand the Interests. Be sufficiently inclined to pursue it—And suff. guarded agt. cont[rar]y motives—If it be certain or very prob. that the people can combine to send a man of their choice, who has their Inter[e]st at heart—out of such a numb. then is the rep. adequ[ua]t[e]—every refl[ectin]g man must judge for himself—

He Said, if the ratio of Repres. ascertd. according to that of New York it wd. be a mob—I admit it in process of [Melancton Smith, Notes for Speech, N]



SMITH. Answer to the Argument, that so small a number are not safely to be trusted, considerd—

The number of Representatives will be increased in 3 Years to 100—in 25 to 200—in 50 to 400 this will be secure—The true question therefore is whether it will be dangerous to public Liberty, whether they will be a safe depository to a limited & well guarded power of

Legislating for the US. The people of the US. will not chuse improper Men—The State Legislatures will watch them, and have many means of counteracting them—There is no danger of foreign gold—because it has not been used with success on Congress, a less body of Men—they consulted in secret—they had the fate of the Country in their hands—No danger of corruption from other branches. the president a Senate or both, because they have not the means—The only means then is the making appointments—this is improbable, because they are accountable to the people—and are not eligible to offices, that may be created or the emoluments increased during the term of their election—

The objection seems to admit, that the Representation as it is now fixed is inadequate—and to rely upon the discretion of the legislature and the natural increase of the Inhabitants of the Country to cure the defect—The article as it now stands leaves it at the discretion of the Legislature to increase the number of Representatives, from the 65 the number now directed, to any number beyond this not to exceed one for every thirty thousand Inhabitants, so that the proportion among the States shall be according to their numbers, except that each State shall have one—This same power will always be in the Legislature—they may increase or diminish the number of Representation at their pleasure with these restrictions only, the[y] shall never exceed in number one for 30,000—they shall be apportiond. according to numbers—and each State shall have one—Such a power is certainly improper in the highest degree to be lodged in any govt.—

Are we to set out with a government defective & bad in its fundamental and radical principles that of a Representation of the people, under the Idea that Spirit of the people of this Country is so high, as to prevent any abuse of power? Such reasoning as this would prove that we should take any thing that is offered to us.—I have no doubt but that a despotic government, was such an one erected in this Country, would for a time be under the necessity of consulting the temper and genius of the people, and therefore that our condition would for a season be tolerable under—but still it is certain that such a government would in process of time subdue the spirit of the people, unless the people destroyed it—Our people are well informed, have an attachment to their Liberties and are watchful of them—We ought then to frame a government congenial to this spirit, calculated to encourage it, but still to check its impetuosity and regulate it by bringing it into subjection to good Laws framed by common consent—And it is of great importance that this government sets out upon the broad principles of equal Liberty—A mode of government operates upon the minds of the

people and effects changes in them, as much as the public sentiment operates to mitigate the rigour of a government—50 or even 25 Years may be too late to apply a remedy—The government will before that time acquire an influence by habit, & take a direction not to be resisted—

As to the observation that the people will chuse good Men, I have sufficiently answered it already by shewing that from the nature of things the choice will commonly fall on the [first?] class—

But it is said that the state Legislatures will watch and restrain them—How will they do this? They have no constitul controul—

They can only remonstrate so can individuals—The government can operate compleatly without them—

It is said there is no danger of their being corrupted—because Congress have not been corrupted—We are not to expect such times as we have seen—Men in the late revolution were influenced by an ardent love of Liberty—were unpracticed in the ways of Courts and the deceitful arts of modern european politics—The present were dependant on the breath of the State Legislatures and they upon the annual elections of the people at large— [Melancton Smith, Notes for Speech, N]

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SMITH. *The Arguments to prove the sufficiency of the Representation considered—*

It is a political problem not easily solved what number is the most convenient—The States are at variance on the subject—The ratio ought not to be the same where the people are numerous as where they are few—The powers of Congress are limited, and the State Legislatures have control and therefore requires less—

It is admitted that the proper ratio of representatives, as it relates to the people cannot be determined with mathematical certainty—But it certainly does not from thence follow, that we may not [be?] certain that some certain numbers are not either too few or too many—It may be difficult to determine whether sixty or seventy members be the most proper number to represent this State [in?] our assembly—but no man would [— —] [— — —] pronounce that ten was too small [a number or?] that 1000 was too large—It is true that the different States in the Union, differ very considerably on this subject, but it is equally true that the Reprn. proposed, bears no kind of proportion in point of numbers to that of the least numerous of the respective States—If we compare the proportion of reprints. in the State Legislatures, even of those the least numerous with that of the general government, we shall find that the proportion between them is not more than as one to ten, and if we compare it to the whole aggregate number of the States, it

is as about one to 20—Yet [the?] general government on the plan of this system [— — —] requires, a strong representation as much [— — —] the States, and more so—

The [— — —] [possess?] an uncontrollable power, to command the property of the Citizens, and they will have the power without restriction almost exclusively to direct all the force of the Country whether militia or regular Troops—It is in the exercise of these power[s] the people have most to apprehend oppression—The motives of ambition under this government will [be greatly?] more powerful than under that of the States [— — —] offices under it will be more honl. & more [lucrative?] And infinitely more will be gained by mens [— — —] themselves in power—

Not only [is the?] *representation* beyond all comparison small, compared with that of the respective States—but it bears no proportion to the Representation in Great Britain—The number of Representatives in the British house of Commons is 558, and the number of Inhab. are computed at 8 M[illion]s. this gives one representative for a little more than 14,000 and this number of Represens. was fixed in that Kingdom when their numbers were probably not more than half what they now are—according to the original principles of the policy [Melancton Smith, Notes for Speech, N]

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ALEXANDER HAMILTON then reassumed his argument. When, said he, I had the honor to address the committee yesterday, I gave a history of the circumstances which attended the Convention, when forming the Plan before you. I endeavored to point out to you the principles of accommodation, on which this arrangement was made; and to shew that the contending interests of the States led them to establish the representation as it now stands. In the second place I attempted to prove, that, in point of number, the representation would be perfectly secure.

Sir, no man agrees more perfectly than myself to the main principle for which the gentlemen [Melancton Smith and John Williams] contend. I agree that there should be a broad democratic branch in the national legislature. But this matter, Sir, depends on circumstances; It is impossible, in the first instance to be precise and exact with regard to the number; and it is equally impossible to determine to what point it may be proper in future to increase it. On this ground I am disposed to acquiesce. In my reasonings on the subject of government, I rely more on the interests and the opinions of men, than on any speculative parchment provisions whatever. I have found, that Constitutions are more or less excellent, as they are more or less agreeable to the natural

operation of things:—I am therefore disposed not to dwell long on curious speculations, or pay much attention to modes and forms; but to adopt a system, whose principles have been sanctioned by experience; adapt it to the real state of our country; and depend on probable reasonings for its operation and result. I contend that sixty-five and twenty-six in two bodies afford perfect security, in the present state of things; and that the regular progressive enlargement, which was in the contemplation of the General Convention, will leave not an apprehension of danger in the most timid and suspicious mind. It will be the interest of the large states to increase the representation: This will be the standing instruction to their delegates.—But, say the gentlemen, the Members of Congress will be interested not to increase the number, as it will diminish their relative influence. In all their reasoning upon the subject, there seems to be this fallacy:—They suppose that the representative will have no motive of action, on the one side, but a sense of duty; or on the other, but corruption:—They do not reflect, that he is to return to the community; that he is dependent on the will of the people, and that it cannot be his interest to oppose their wishes. Sir, the general sense of the people will regulate the conduct of their representatives. I admit that there are exceptions to this rule: There are certain conjunctures, when it may be necessary and proper to disregard the opinions which the majority of the people have formed: But in the general course of things, the popular views and even prejudices will direct the actions of the rulers.

All governments, even the most despotic, depend, in a great degree, on opinion. In free republics, it is most peculiarly the case: In these, the will of the people makes the essential principle of the government; and the laws which control the community, receive their tone and spirit from the public wishes. It is the fortunate situation of our country, that the minds of the people are exceedingly enlightened and refined: Here then we may expect the laws to be proportionably agreeable to the standard of perfect policy; and the wisdom of public measures to consist with the most intimate conformity between the views of the representative and his constituent. If the general voice of the people be for an increase, it undoubtedly must take place: They have it in their power to instruct their representatives; and the State Legislatures, which appoint the Senators, may enjoin it also upon them. Sir, if I believed that the number would remain at sixty-five, I confess I should give my vote for an amendment; though in a different form from the one proposed.

The amendment proposes a ratio of one for twenty thousand: I would ask, by what rule or reasoning it is determined, that one man is a better representative for twenty than thirty thousand? At present

we have three millions of people; in twenty-five years, we shall have six millions; and in forty years, nine millions: And this is a short period, as it relates to the existence of States. Here then, according to the ratio of one for thirty thousand, we shall have, in forty years, three hundred representatives. If this be true, and if this be a safe representation, why be dissatisfied? why embarrass the Constitution with amendments, that are merely speculative and useless. I agree with the gentleman [Melancton Smith], that a very small number might give some colour for suspicion: I acknowledge, that ten would be unsafe; on the other hand, a thousand would be too numerous. But I ask him, why will not ninety-one be an adequate and safe representation? This at present appears to be the proper medium. Besides, the President of the United States will be himself the representative of the people. From the competition that ever subsists between the branches of government, the President will be induced to protect their rights, whenever they are invaded by either branch. On whatever side we view this subject, we discover various and powerful checks to the encroachments of Congress. The true and permanent interests of the members are opposed to corruption: Their number is vastly too large for easy combination: The rivalry between the houses will forever prove an insuperable obstacle: The people have an obvious and powerful protection in their own State governments: Should any thing dangerous be attempted, these bodies of perpetual observation, will be capable of forming and conducting plans of regular opposition. Can we suppose the people's love of liberty will not, under the incitement of their legislative leaders, be roused into resistance, and the madness of tyranny be extinguished at a blow? Sir, the danger is too distant; it is beyond all rational calculations.

It has been observed by an honorable gentleman, that a pure democracy, if it were practicable, would be the most perfect government.¹³ Experience has proved, that no position in politics is more false than this. The ancient democracies, in which the people themselves deliberated, never possessed one feature of good government.—Their very character was tyranny; their figure deformity:—When they assembled, the field of debate presented an ungovernable mob, not only incapable of deliberation, but prepared for every enormity. In these assemblies, the enemies of the people brought forward their plans of ambition systematically. They were opposed by their enemies of another party; and it became a matter of contingency, whether the people subjected themselves to be led blindly by one tyrant or by another.

It was remarked yesterday [by Melancton Smith], that a numerous representation was necessary to obtain the confidence of the people. This is not generally true. The confidence of the people will easily be

gained by a good administration. This is the true touchstone. I could illustrate the position, by a variety of historical examples, both ancient and modern. In Sparta, the Ephori were a body of magistrates, instituted as a check upon the senate, and representing the people. They consisted of only five men: But they were able to protect their rights, and therefore enjoyed their confidence and attachment. In Rome, the people were represented by three Tribunes, who were afterwards increased to ten.¹⁴ Every one acquainted with the history of that republic, will recollect how powerful a check to the senatorial encroachments, this small body proved; how unlimited a confidence was placed in them by the people whose guardians they were; and to what a conspicuous station in the government, their influence at length elevated the Pleb[e]ians. Massachusetts has three hundred representatives; New-York has sixty-five. Have the people in this state less confidence in their representation, than the people of that? Delaware has twenty-one: Do the inhabitants of New-York feel a higher confidence than those of Delaware? I have stated these examples, to prove that the gentleman's principle is not just. The popular confidence depends on circumstances very distinct from considerations of number. Probably the public attachment is more strongly secured by a train of prosperous events, which are the result of wise deliberation and vigorous execution, and to which large bodies are much less competent than small ones. If the representative conducts with propriety, he will necessarily enjoy the good will of the constituent. It appears then, if my reasoning be just, that the clause is perfectly proper, upon the principles of the gentleman [Melancton Smith] who contends for the amendment: as there is in it the greatest degree of present security, and a moral certainty of an increase equal to our utmost wishes.

It has been farther, by the gentlemen in opposition [John Williams and Melancton Smith], observed, that a large representation is necessary to understand the interests of the people—This principle is by no means true in the extent to which the gentleman [Melancton Smith] seems to carry it. I would ask, why may not a man understand the interests of thirty as well as of twenty? The position appears to be made upon the unfounded presumption, that all the interests of all parts of the community must be represented. No idea is more erroneous than this. Only such interests are proper to be represented, as are involved in the powers of the General Government. These interests come completely under the observation of one, or a few men; and the requisite information is by no means augmented in proportion to the increase of number. What are the objects of the Government? Commerce, taxation, &c. In order to comprehend the interests of commerce, is it

necessary to know how wheat is raised, and in what proportion it is produced in one district and in another? By no means. Neither is this species of knowledge necessary in general calculations upon the subject of taxation. The information necessary for these purposes, is that which is open to every intelligent enquirer; and of which, five men may be as perfectly possessed as fifty. In royal governments, there are usually particular men to whom the business of taxation is committed. These men have the forming of systems of finance; and the regulation of the revenue. I do not mean to commend this practice. It proves however, this point; that a few individuals may be competent to these objects; and that large numbers are not necessary to perfection in the science of taxation. But granting, for a moment, that this minute and local knowledge the gentlemen contend for, is necessary, let us see, if under the New Constitution, it will not probably be found in the representation. The natural and proper mode of holding elections, will be to divide the state into districts, in proportion to the number to be elected. This state will consequently be divided at first into six. One man from each district will probably possess all the knowledge the gentlemen can desire. Are the senators of this state more ignorant of the interests of the people, than the assembly? Have they not ever enjoyed their confidence as much? Yet, instead of six districts, they are elected in four; and the chance of their being collected from the smaller divisions of the state consequently diminished. Their number is but twenty-four; and their powers are co-extensive with those of the assembly, and reach objects, which are most dear to the people—life, liberty and property.

Sir, we hear constantly a great deal, which is rather calculated to awake our passions, and create prejudices, than to conduct us to truth, and teach us our real interests.—I do not suppose this to be the design of the gentlemen.—Why then are we told so often of an aristocracy? For my part, I hardly know the meaning of this word as it is applied. If all we hear be true, this government is really a very bad one. But who are the aristocracy among us? Where do we find men elevated to a perpetual rank above their fellow citizens; and possessing powers entirely independent of them? The arguments of the gentlemen only go to prove that there are men who are rich, men who are poor, some who are wise, and others who are not—That indeed every distinguished man is an aristocrat.—This reminds me of a description of the aristocrats, I have seen in a late publication, styled the Federal Farmer.—The author reckons in the aristocracy, all governors of states, members of Congress, chief magistrates, and all officers of the militia.¹⁵—This description, I presume to say, is ridiculous.—The image is a phantom. Does the new government render a rich man more eligible than a poor

one? No. It requires no such qualification. It is bottomed on the broad and equal principle of your state constitution.¹⁶

Sir, if the people have it in their option, to elect their most meritorious men; is this to be considered as an objection? Shall the constitution oppose their wishes, and abridge their most invaluable privilege? While property continues to be pretty equally divided, and a considerable share of information pervades the community; the tendency of the people's suffrages, will be to elevate merit even from obscurity—As riches increase and accumulate in few hands;—as luxury prevails in society; virtue will be in a greater degree considered as only a graceful appendage of wealth, and the tendency of things will be to depart from the republican standard. This is the real disposition of human nature: It is what, neither the honorable member nor myself can correct—It is a common misfortune, that awaits our state constitution, as well as all others.

There is an advantage incident to large districts of election, which perhaps the gentlemen, amidst all their apprehensions of influence and bribery, have not adverted to. In large districts, the corruption of the electors is much more difficult:—Combinations for the purposes of intrigue are less easily formed: Factions and cabals are little known. In a small district, wealth will have a more complete influence; because the people in the vicinity of a great man, are more immediately his dependants, and because this influence has fewer objects to act upon. It has been remarked, that it would be disagreeable to the middle class of men to go to the seat of the new government.¹⁷ If this be so, the difficulty will be enhanced by the gentleman's proposal. If his argument be true, it proves, that the larger the representation is, the less will be your choice of having it filled. But, it appears to me frivolous to bring forward such arguments as these. It has answered no other purpose, than to induce me, by way of reply, to enter into discussions, which I consider as useless, and not applicable to our subject.

It is a harsh doctrine, that men grow wicked in proportion as they improve and enlighten their minds.¹⁸ Experience has by no means justified us in the supposition, that there is more virtue in one class of men than in another. Look through the rich and the poor of the community; the learned and the ignorant.—Where does virtue predominate? The difference indeed consists, not in the quantity but kind of vices, which are incident to the various classes; and here the advantage of character belongs to the wealthy. Their vices are probably more favorable to the prosperity of the state, than those of the indigent; and partake less of moral depravity.

After all, Sir, we must submit to this idea, that the true principle of a republic is, that the people should choose whom they please to govern them. Representation is imperfect, in proportion as the current of popular favour is checked.—This great source of free government, popular election, should be perfectly pure, and the most unbounded liberty allowed. Where this principle is adhered to; where, in the organization of the government, the legislative, executive and judicial branches are rendered distinct; where again the legislative is divided into separate houses, and the operations of each are controuled by various checks and balances, and above all, by the vigilance and weight of the state governments; to talk of tyranny, and the subversion of our liberties, is to speak the language of enthusiasm. This balance between the national and state governments ought to be dwelt on with peculiar attention, as it is of the utmost importance.—It forms a double security to the people. If one encroaches on their rights, they will find a powerful protection in the other.—Indeed they will both be prevented from overpassing their constitutional limits, by a certain rivalry, which will ever subsist between them.—I am persuaded, that a firm union is as necessary to perpetuate our liberties, as it is to make us respectable; and experience will probably prove, that the national government will be as natural a guardian of our freedom, as the state legislatures themselves.

Suggestions, Sir, of an extraordinary nature, have been frequently thrown out in the course of the present political controversy. It gives me pain to dwell on topics of this kind; and I wish they might be dismissed. We have been told, that the old Confederation has proved inefficacious, only because intriguing and powerful men, aiming at a revolution, have been forever instigating the people, and rendering them disaffected with it.¹⁹ This, Sir, is a false insinuation—The thing is impossible. I will venture to assert, that no combination of designing men under Heaven, will be capable of making a government unpopular, which is in its principles a wise and good one; and vigorous in its operations.

The Confederation was framed amidst the agitation and tumult of society.—It was composed of unsound materials put together in haste. Men of intelligence discovered the feebleness of the structure, in the first stages of its existence; but the great body of the people, too much engrossed with their distresses, to contemplate any but the immediate causes of them, were ignorant of the defects of their Constitution.—But, when the dangers of war were removed, they saw clearly what they had suffered, and what they had yet to suffer from a feeble form of

government. There was no need of discerning men to convince the people of their unhappy situation—the complaint was co-extensive with the evil, and both were common to all classes of the community. We have been told, that the spirit of patriotism and love of liberty are almost extinguished among the people; and that it has become a prevailing doctrine, that republican principles ought to be hooted out of the world. Sir, I am confident that such remarks as these are rather occasioned by the heat of argument, than by a cool conviction of their truth and justice. As far as my experience has extended, I have heard no such doctrine, nor have I discovered any diminution of regard for those rights and liberties, in defence of which, the people have fought and suffered. There have been, undoubtedly, some men who have had speculative doubts on the subject of government; but the principles of republicanism are founded on too firm a basis to be shaken by a few speculative and sceptical reasoners. Our error has been of a very different kind. We have erred through excess of caution, and a zeal false and impracticable. Our counsels have been destitute of consistency and stability. I am flattered with a hope, Sir, that we have now found a cure for the evils under which we have so long labored. I trust, that the proposed Constitution affords a genuine specimen of representative and republican government—and that it will answer, in an eminent degree, all the beneficial purposes of society. [Childs, *Debates*, 35–41]

◆

HAMILTON. I endeavoured to shew that the Contending Interests of the States produced that Compromise—

That it would finally produce Safety—

That all Attempts to vary that Clause will be useless—

That it will finally from Circumstances & Cause produce a Sufficient Representation—

I Contend that 65 & 24 will [be] sufficient for the Safety of the Country—The [number] will encrease—in 20 or 25 years be 200—sufficient—

The Gent. [Melancton Smith] Contends that the encrease being by Ratio will not encrease the Power—The Members interested in not encreasing the Number—

This falacy—the Gentleman considers this as a permanent Body—but it is only for 2 years—

In General The Voice of the People governs the Representatives—

This becomes more in every Governmt.

Example France—

Our People are more enlightened than any other and will become more and more so—

If [it] shall be the Wish of the People of America to encrease the Representation it must be done—

The Senate will also have their Effect

Confident That the Augmentation of the Representation will be progressive—

The Man in place where his Governmt. does not grow must Consent to encrease the number to save his own States Nos

The State Governmts. must have great Influence on the Genl. Govt.

It was necessary to leave Discretion [to] the Genl Govt.

And it is impossible they should not encrease—

On Gent [Melancton Smith] plan it will encrease in the Ratio of 20,000 instead of 30,000—

At present 3 mill. 25 years 6 mill 40 years 9 mill—

30,000 for 1 a Safe Representation at that time it will be more so now—

I admit 10 too Small—he admits 1000 would be a Mob

Is not 91 a Sufficient Safe Number & the Presidt. himself a Represent—we have but 65 & 24

Why is not the Same Number Safer for the united States Than for this State—

91 Members in the first Instance for the Genl Govt.

Suppose that Govt. could be corrupted—

Would there be equal Danger as Corruption in the State Govt. Would not the State Governmts interfere—

How Soon would their Despotism or Combinations be defeated—

It would be disagreeable to trace it but all that can be all[e]dged agt. the National Govt. may be alledged agt. the Governmt. of this State—

We may Suppose men Love power—but not Suppose them mad—

When a Representation is encreased One Step it thence remains permanent—

The Senate will have the same Sentiments as the assembly—

A large Body of Men more easily distracted and Managed than a Smaller or Selected Body [of] Men—

Where people met in Bodies they never Acted with System—

The Magistrates managed them & brot thro their plans—

A Collective Body less Safe than a Select Body—

The Wish of the larger States to encrease their Represent in proportion to their Population will encrease the Represent—

Said The Confidence of the People necessary and therefore numbers necessary—

Negative Few or many if they have Confidence

In Sparta 2

In Rome at first 2 afterwards 10—From their power extended the power of the Democracy over the Aristocracy—

Is the Confidence of Mass. in 30[0]. more than in 21 in Delaware

We have 65. is Confidence less here—

Therefore the Confidence of the people not in proportion to the number of Representatives—

Ergo—The Number here is sufficient for Confidence and to answer all our Purposes—

~~Consider now Things~~

This Numerous Representat necessary to know and understand the Interests of the People

If a Man can Understand the Interest of 20,000 why can he not understand the Interest of 30,000—

What are they to know—Commerce—Taxes—Treaties—and Some minuter Things—

Commerce he must know the produce of the Country and to what Extent exported—

Select men will know enough of this without all the minutiae of the Matter—

There will be sufficient Security—Suppose this State in 6 Districts, take one Man out of each District will he not know the wants of the people—

In our State Senate we chuse only in 4 Districts—find no Inconvenience in it—

Six would necessarily possess all that local Knowledge of their Constituents contended—

Much Imagination than attention to facts in the reasoning on this Subject—

We hear more which tends to encrease Prejudices—

Aristocracy—

1st. The best men who have most Virtue & Goodness of Heart

2d. an Independt. Body of Men not depending on the Choice of the People—We have none such—

There will always be Men more Rich and more wise or Sensible than others—

2d Vol. of federal Farmer—Natural Aristocracy—

1st. Govrs. of States.

2d. Members of Congress

3 Judges of Sup. Court

4 Officers of Militia

Does this fix any other Qualifications to Electors or elected than your own Constitution—

If men chuse Rich or wise men they will have their *Choice*

This Country will change—

As wealth encreases Men of greater Fortunes will be elected

This is according to the State of Society—

A Moderate Representation will occasion larger Districts of Election—This will operate Well—The best men and of probity will [be] elected—This will therefore be the best Govt. It will not be *Rich* or *Poor* but the men who have deserved Confidence—

Wealth might operate in Small Districts—Merit in large ones—

It was observed

It would be disagreeable to men of Middling Class to be sent to mix with such a Body—

There will always be there different Classes

The point of Connection between Representative and the Represented are duty and Gratitude—

There is not more Virtue or Vice in one class of Citizens than Another—

It is harsh to suppose a Monopoly

This System founded on Republican Principles—The People are to be represented by whom they think proper to chuse—

The Judic[i]al Separated—One Body Checks another and therefore the People must be free—

The People will have the greatest Security by a State Govt and a National Govt.

This is essential to the Liberty of the Country—It sets Power agt. Power—Let usurpation arise the People will have an Arm of Support—

As to power when we come to that I shall Shew that the State Govts. are safe—Safer than the Genl Governmt.

Things to be dismissed

That the Confederat. has failed of Effect because it has been traduced by many Gentlemen—

1st. This is an Ill complimt. to the People—2d. If a Constitution or Governmt. has operated well and had a good Effect the People will not believe any thing said agt. it—Therefore traduction Vain—

It weakness in a Govt. will make it an Object of Criticism & Contempt—to its radical defectiveness must be attributed its Contempt—

I find the Spirit of Patriotism as high as ever—

I believe No fact to Support *Republican Principles hooted out of the World*—

There are men of Different Ideas—but all men agree that Republican Principles & Govt. are the most Noble

—We have been too diffident of the Noblest princ[ip]les which should be cherished—and restrained a Sufficient Power

—This Constitution tempered in that Moderate Mean we shall here find the true Support of Liberty and republican Governmt. [Mc-Kesson's Notes, NHi]



HAMILTON. Agrees with me in the first principle of a broad basis—
 It resulted from compromise—
 secure at present—
 3 years—
 fallacy—the body havg. a perm[anen]t Int[erest] The Int. not for
 it—
 public opinion governs the people—
 in France—
 the Argument from public opinion concludes to any thing—
 The numbers of the State will be diminished
 It may be the case accordg. to the States—
 The State governments will be a Check—
 The substantial difference between 20 and 30,000
 when it comes to 90000—it stops—if it then will be safe, it will now
 in his [i.e., its] infancy—
 both houses electg—is not 91 members safe—
 The State the same in number—
 annually elected—
 of the common people
 few objects of power—
 The State can give system—
 Our jealousies may be carried to any length—may be applied to any
 State without any Check
 Cannot suppose men be mad—
 The Senate & President will be under the influ[en]ce of the peo-
 ple—
 The Idea of a Democracy meeting—I did not advocate—
 To attain the Confid—true to a certain extent
 depends on two things
 1. They are their Servants
 2. The wisdom of the administrn.
 Illustrated by Sparta—
 The Ephori—supplanted the
 a small City—
 Rome—the Tribunes

the people contended against a heridy.—The people themselves—
Mass. 300—N.Y. 65—Del. 24—The proportion, not very much diff—
in all suff. for the people to know—yeomanry—

Cannot be solid objection, because it comes near to the proposal—
Interest—to a certain degree—why cant a man understand 20 as well
as 30—

In order to understand the productions of a Country he need not
understand how wheat is grown—The capacity of a country to produce
is necessary—

It is not necy. because in some Countries some few men

—The Represents. divided into Districts—

Our Senators are chosen by the people at large—in four Districts—
one Man to be found—one to 4

A great deal of imagination} As the country increases it will be
more—

—Aristocracy—Two senses—

1st. the best men—

2d. the [- - -] independent class of men not elected by the peo-
ple—

Men in all classes diff. —

both of us are taken in—

does not propose, making wealth a qualification—

It will depend on the State Society—

at present people of moderate fortune—

in proportion as men have confidence—

Among ourselves—it has not had an effect—it will make large Dis-
tricts

—will be carried by a major voice of a respectable number—

Can the rich bribe a large district as a small—

No reason to think it will be disagreeable

—if it is it operates against the amends—

The true point, is the connection of Interest

—ought not to be supposed—great & rich not more vicious—than
the poor—

Circumstances—expose to vice

The governt founded on the true principals—while the people—
chuse—

The security of the State Govt.—on the one side if a State should
encroach—if the US. encroach the States—

It has been said that the confedn. has failed because the principal
men of the Country has opposed—an ill complement impossible—

because a govt. cannot be disaffected with a govt.—

If it had not had a radical defect it could not have suffered
Cont[empt]—

If it said the spirit of patriotism is decried—

Republic govt. decried—[- - -] represented as chimerical—

fears our extreme jealousies, will not give it an experiment— [Melancton Smith, Notes, N]

* * * * *

MELANCTON SMITH rose and observed, that the gentleman [Alexander Hamilton] might have spared many of his remarks in answer to the ideas he had advanced. The only way to remedy and correct the faults in the proposed Constitution was, he imagined, to increase the representation and limit the powers. He admitted that no precise number could be fixed on. His object only was to augment the number in such a degree as to render the government more favorable to liberty. The gentleman had charged his argument, that it would be the interest of the Congress to diminish the number of representatives, as being puerile. It was only made in answer to another of the gentleman's, which he thought equally weak; that it would be their interest to increase it. It appeared to him, he said, evident that the relative interests of the states would not be in the least degree increased by augmenting the numbers. The honorable member had assured the committee that the states would be checks upon the general government, and had pledged himself to point out and demonstrate the operation of these checks. For his own part, he could see no possibility of checking a government of independent powers, which extended to all objects and resources without limitation. What he lamented was that no constitutional checks were provided; such checks as would not leave the exercise of government to the operation of causes, which in their nature are variable and uncertain.

The honorable member had observed that the confidence of the people was not necessarily connected with the number of their rulers, and had cited the Ephori of Sparta, and the Tribunes in Rome, as examples. But it ought to be considered, that in both these places, the people were to contend with a body of hereditary nobles: They would, therefore, naturally have confidence in a few men who were their leaders in the constant struggle for liberty. The comparison between the representations of several states did not better apply. New-York had but sixty-five representatives in assembly—But because sixty-five was a proper representation of two hundred and forty thousand, did it follow that it was also sufficient for three millions? The state legislatures had not the powers of the general government, and were not competent to those important regulations which might endanger liberty.

The gentleman, continued Mr. *Smith*, had ridiculed his idea of an aristocracy, and had entered into a definition of the word: He himself agreed to this definition; but the dispute was not of words but things. He was convinced, that in every society there were certain men exalted above the rest. These men he did not consider as destitute of morality or virtue.—He only insisted that they could not feel sympathetically the wants of the people. [Childs, *Debates*, 41–42]

SMITH. I observed—It was impossible to have a proper Representation in this Country—

That therefore we must [be] Content with some Amendment

2d. A falacy in my argument—

His [Alexander Hamilton's] Argumt. that their Interest to encrease
So far as their is any Interest—their Interest agt. it as the Relative Interest the Same—

State Governments a powerful Check

If so it much [i.e., must] be by direct opposition—as a Body of Super[vi]sors opposing the Legislature—This the worst Check in the world—

The Deference between 20,000 & 30,000—is as 20 to 30—

It will encrease the Number of Representatives, which will give Safety
In order to shew that the Confidence of the People not con[nected]

The Ephori of Sparta—only two—Supplanted the Nobles—Ans.
Sparta a Single City and Contending agt. Hereditary Nobles—

The like in Rome—The People numerous the Tribunes had their
Confidence and prevailed agt. the Patricians—

does it follow because 65 & 24 are a Suffic[i]ent Number to represent
240,000 that 91 is a Sufficent No. to represent 3 mil—

We cannot make war have limited Power—This Govt. has all
Power—

I wish the Constitution had provided to chuse men out of different
Districts and that they should have a Majority of the Votes of the District—

The Gent Observes

The Safety of Representat in this Districts will [be] Safe or Safer than
our [state] Senators—

But we have a Democratic Branch chosen in small Districts—Our
Law wrong—Men Sent by a Vast Minority of the People who Vote—

I gave a plain Definition of the word Aristocracy—

I did not say Rich men had worse hearts than poor Men—

All Men have their Vices—If the Liberties of the People are to [be]
destroyed—the Poor cannot gain the Rich will—

What is the difference whether the Constitution says that Rich men be elected—or is so contrived that only *Rich* men will be elected—

When the People do chuse their Rulers—must not those rulers in a Republic be a compleat Representation of the Electors—

I said the Confederation would [be] operated better if it had not been traduced— [McKesson's Notes, NHi]



SMITH.—Would observe before he made any Observation

—Difficult to make Representation equal to the End of it and Extent of the Country—

—State Govts. no Check in this Constitution—& can only check by Force—

—Does not think it eligible for the People to meet together to deliberate even in small Districts—

—Ephori—Tribunes &ca.

—Our State Govt. less in Extent—it's Powers inferior—

—Aristocracy—

—Vice of Great Men is Ambition—

—Tho' no exclusive Right of being elected—yet by the Natural Course of Events the great will be the elected.— [Richard Harison, Notes, DLC]



SMITH. in reply

Ratio decrease when census taken

State governments no check—but by *direct opposition*—

Is not that case under confederation?

Sparta and Rome—people got the [better?] *because* opposition of those who claim *hereditary right*—They always got the [better?]

State not powers general government

State has elections representation [Robert R. Livingston, Notes, NHi]

ALEXANDER HAMILTON. I do contend that this Constitution is a federal Republic [McKesson's Notes, NHi]

MELANCTON SMITH. I observed that the Representation should be numerous to be acquainted with the Community and should have men of the midling Class—

It is necessary that they should descend to a knowledge of such things as men in the midling Class of Life do know— [McKesson's Notes, NHi]

JOHN LANSING, JR., said, that in the course of the observations made on the paragraph under consideration, it had been shewn that the democratic branch ought to possess the feelings of the people, and be above corruption. It was therefore with propriety contended, that the house of representatives ought to be large. This had been objected to, he said, because it was difficult to ascertain the precise number proper for this end. But though we could not always hit the exact medium, yet we could generally avoid the extremes. Allowing that it was the interest of the larger states to increase the representation, yet it would be imprudent to trust a matter of such infinite importance to possibilities, or the uncertain operations of interest. He said we had it now in our power to fix and provide for the operations of this government; and we ought to embrace the opportunity. An honorable gentleman [Alexander Hamilton] had said, that the state of New-York had trusted her liberties to a few men—But was this a reason why the rights of the United States should be submitted to an equal number? The representatives of New-York in assembly were chosen from all parts of the state: They were intimately connected with and dependent on the people. In the general government they were to be selected from the superior class of citizens; and subject to little or no controul. Would it be prudent, said he, to trust the affairs of this extensive continent to a body of men, forty-six of whom would be competent to pass laws, and twenty-four of these a majority?²⁰ The house of commons of Great-Britain consisted of more than eight times the number,²¹ and yet that house had been frequently corrupted: How much more easily might so small a body as the Congress be infected. [Childs, *Debates*, 42]



LANSING. It is admitted “that the Representation should be so large as to possess the Sentiments of their Constituents”

One Gentleman [Melancton Smith] supposes the Representation may be lessened or retained where it is—the other [Alexander Hamilton] Supposes it must be necessarily Encreased—

It is of great Importance—Why not now fix the Representation

It now not Certain—Why not render it Certain—

It is asked why is not this Representation as adequate as the Representation of N York—

Is it proper so Small a Body of Men dispose of the finances of the united State[s], declare War, direct Military Force—Should 24 Men make Laws of such Importance—

Even if 2/3ds. attend the Consequence will be that 26 Members in the lower House will give the Sense of the Democracy in the Country—

The House of Commons how numerous—The Crown by Money and Office can obtain a Majority—

It will be difficult [to] induce persons properly qualified to go from home to attend the General Interest—

On this Ground the R [i.e., Representation?] [McKesson's Notes, NHi]



LANSING. Representation should comprise the Feelings and Interests of the Community—

Difficult to fix the precise Number proper—Cannot fix the exact Medium but may avoid the Extremes—

Should not leave this to the Operation of Interests—but should ascertain it—

In the present Way—neither comprehends the Feelings &ca. nor is secure from Corruption—

The State Govt. different—Reps. drawn from the People and acting under their Eye—

In the general Govt. go from the principal Class of the Citizens & to a Distance—

So small a Number not to be trusted²²—

⟨if $\frac{2}{3}$ d. attend, yet only 26 Members will determine in the Assembly—

—House of Commons may be corrupted—

—If difficult to get People to attend, yet this Reason for encreasing the Representation—⟩ [Richard Harison, Notes, DLC]



LANSING. 1st Democratic branch possess feeling interest

2 free corruption—

neither does one or the other—

If shd. be increased why not increas[e] now—

Representatives State act under Eye people—

Crown corrupts house commons—

much easier H. or Legislature— [Robert R. Livingston, Notes, NHi]

GEORGE CLINTON. I rise, Mr. Chairman, to make a few observations, with a view to obtain information, and to discover on which side of this important question the truth rests. I have attended, with pleasure, to the gentlemen who have spoken before me. They appear, however, to have omitted some considerations, which have tended to convince my mind, that the representation in Congress ought to be more comprehensive and full than is proposed by this Constitution. It is said, that the representation of this state in the legislature, is smaller than the

representation of the United States will be in the general government. Hence it is inferred, that the Federal Government, which it is said does not embrace more interesting powers than that of the states, will be more favorable to the liberties of the people, on the principle that safety consists in numbers. This appears plausible at first view; but if we examine it, we shall discover it to be only plausible. The cases indeed are so different, as to admit of little comparison; and this dissimilarity depends on the difference of extent of territory. Each state is but a narrow district compared to the United States: The situation of its commerce, its agriculture, and the system of its resources will be proportionably more uniform and simple: To a knowledge of these circumstances, therefore, every member of the state legislature will be in some degree competent. He will have a considerable share of information necessary for enacting laws, which are to operate in every part of the state. The easy communication with a large number of representatives from the minute districts of the state, will increase his acquaintance with the public wants: All the representatives, having the same advantages, will furnish a mass of information, which will be the securest defence from error. How different will be the situation of the General Government! The body of the legislature will be totally unacquainted with all those local circumstances of any particular state, which mark the proper objects of laws, and especially of taxation. A few men, possessed of but a very general knowledge of these objects, must alone, furnish Congress with that information on which they are to act; and on these few men, in the most interesting transactions, must they rely. Do not these considerations afford strong reasons for an enlargement of the representation?

Another argument may be suggested to shew, that there will be more safety in the state, than in the Federal Government. In the state, the legislators being generally known, and under the perpetual observation of their fellow citizens, feel strongly the check resulting from the facility of communication and discovery. In a small territory, mal-administration is easily corrected, and designs unfavorable to liberty frustrated and punished. But in large confederacies, the alarm excited by small and gradual encroachments, rarely extends to the distant members, or inspires a general spirit of resistance. When we take a view of the United States, we find them embracing interests as various as their territory is extensive. Their habits, their productions, their resources, and their political and commercial regulations are as different as those of any nation on earth. A general law, therefore, which might be well calculated for Georgia, might operate most disadvantageously and cruelly upon New-York. However, I only suggest these observations, for the

purpose of hearing them satisfactorily answered. I am open to conviction, and if my objections can be removed, I shall be ready frankly to acknowledge their weakness. [Childs, *Debates*, 42–43]

—◆—
CLINTON. My Object is Information—

It is admitted the State Representation is Smallest therefore the other Govt. Safe

The State Governmt. is confined to a Small narrow District—Every member has some knowledge of every part of the State—We Send Six members—The Members of other States know not our State, they must depend on those Six Members—what knowledge can Georgia have of our State or Taxation—

If in State Govt. if Mal Administration you have it in your Power to correct—If mal Administration every man feels it—Our productions & Climate alike

The General Govt. embraces different Climates productions and manners—A good Tax Law in Georgia might distress us greatly—

The People of New York cannot confer with Georgia or New Hampshire on these Occasions—

You may recal your Members but the Measures will be the Same—
[McKesson's Notes, NH]

—◆—
CLINTON. Wishes to discover what is right—

thinks the Representation too small

Argument

from the State Legislatures

Every Member possesses some Knowledge of every Part of the State Different in the general Govt.

All obliged to depend upon the Representatives from the State Govt.

As to Mode of assessing Taxes—

Maladministration in a State Govt. can easily be remedied—

Have the same Climates and Feelings in the State—but not in so extensive a Govt.

—Insurrection in Massachusetts²³ produced a Change in the Spirit of Govt., tho' unsuccessful.

Wishes to have an Answer & is seeking for Truth—

As to the Union the Dissolution of it remote from his Wish & desires a strong energetic Govt.—one may desire a Consolidation, the other a federal Republic— [Richard Harison, Notes, DLC]

—◆—
CLINTON. State govermt. corrects mal-administration by annual election [Robert R. Livingston, Notes, NH]

* * * * *

ALEXANDER HAMILTON. Mr. Chairman, I rise to take notice of the observations of the hon. member from Ulster [George Clinton]. I imagine the objections he has stated, are susceptible of a complete and satisfactory refutation. But before I proceed to this, I shall attend to the arguments advanced by the gentlemen from Albany [John Lansing, Jr.] and Dutchess [Melancton Smith]. These arguments have been frequently urged, and much confidence has been placed in their strength: The danger of corruption has been dwelt upon with peculiar emphasis, and presented to our view in the most heightened and unnatural colouring: Events merely possible have been magnified by distempered imagination into inevitable realities; and the most distant and doubtful conjectures have been formed into a serious and infallible prediction. In the same spirit, the most fallacious calculations have been made: The lowest possible quorum has been contemplated as the number to transact important business; and a majority of these to decide in all cases on questions of infinite moment. Allowing, for the present, the propriety and truth of these apprehensions, it would be easy, in comparing the two constitutions, to prove that the chances of corruption under the new, are much fewer than those to which the old one is exposed. Under the old confederation, the important powers of declaring war, making peace, &c. can be exercised by nine states. On the presumption that the smallest constitutional number will deliberate and decide, those interesting powers will be committed to fewer men, under the ancient than under the new government. In the former, eighteen members,²⁴ in the latter, not less than twenty-four²⁵ may determine all great questions. Thus on the principles of the gentlemen, the fairer prospect of safety is clearly visible in the new government. That we may have the fullest conviction of the truth of this position, it ought to be suggested, as a decisive argument, that it will ever be the interest of the several states to maintain, under the new government, an ample representation: For, as every member has a vote, the relative influence and authority of each state will be in proportion to the number of representatives she has in Congress. There is not therefore a shadow of probability, that the number of acting members in the general legislature, will be ever reduced to a bare quorum; especially as the expence of their support is to be defrayed from a federal treasury: But under the existing confederation, as each state has but one vote, it will be a matter of indifference, on the score of influence, whether she delegates two or six representatives: And the maintenance of them forming a striking article in the state expenditures, will forever prove a capital inducement to retain or withdraw from the federal legislature,

those delegates which her selfishness may too often consider as superfluous.

There is another source of corruption, in the old government, which the proposed plan is happily calculated to remedy. The concurrence of nine states, as has been observed, is necessary to pass resolves the most important, and on which, the safety of the republic may depend. If these nine states are at any time assembled, a foreign enemy, by dividing a state and gaining over and silencing a single member, may frustrate the most indispensable plan of national policy, and totally prevent a measure, essential to the welfare or existence of the empire. Here, then, we find a radical, dangerous defect, which will forever embarrass and obstruct the machine of government; and suspend our fate on the uncertain virtue of an individual. What a difference between the old and new constitution strikes our view! In the one, corruption must embrace a majority; in the other, her poison administered to a single man, may render the efforts of a majority totally vain. This mode of corruption is still more dangerous, as its operations are more secret and imperceptible: The exertions of active villainy are commonly accompanied with circumstances, which tend to its own exposure: But this negative kind of guilt has so many plausible apologies as almost to elude suspicion.

In all reasonings on the subject of corruption, much use has been made of the example furnished by the British house of commons. Many mistakes have arisen from fallacious comparisons between our government and theirs. It is time, that the real state of this matter should be explained. By far the greatest part of the house of commons is composed of representatives of towns or boroughs: These towns had antiently no voice in parliament; but on the extension of commercial wealth and influence, they were admitted to a seat. Many of them are in the possession and gift of the king; and from their dependence on him, and the destruction of the right of free election, they are stigmatized with the appellation of rotten boroughs. This is the true source of the corruption, which has so long excited the severe animadversion of zealous politicians and patriots. But the knights of the shire, who form another branch of the house of commons, and who are chosen from the body of the counties they represent, have been generally esteemed a virtuous and incorruptible set of men. I appeal, Sir, to the history of that house: This will shew us, that the rights of the people have been ever very safely trusted to their protection; that they have been the ablest bulwarks of the British commons; and that in the conflict of parties, by throwing their weight into one scale or the other,

they have uniformly supported and strengthened the constitutional claims of the people. Notwithstanding the cry of corruption that has been perpetually raised against the house of commons, it has been found, that that house, sitting at first without any constitutional authority, became, at length, an essential member of the legislature; and have since, by regular gradations, acquired new and important accessions of privilege: That they have, on numerous occasions, impaired the overgrown prerogative, and limited the incroachments of monarchy.

An honorable member from Dutchess, (*Mr. Smith*) has observed, that the delegates from New-York, (for example) can have very little information of the local circumstances of Georgia or South-Carolina, except from the representatives of those states; and on this ground, insists upon the expediency of an enlargement of the representation; since, otherwise, the majority must rely too much on the information of a few. In order to determine whether there is any weight in this reasoning, let us consider the powers of the national government, and compare them with the objects of state legislation. The powers of the new government are general, and calculated to embrace the aggregate interest of the Union, and the general interest of each state, so far as it stands in relation to the whole. The object of the state governments is to provide for their internal interests, as unconnected with the United States, and as composed of minute parts or districts. A particular knowledge, therefore, of the local circumstances of any state, as they may vary in different districts, is unnecessary for the federal representative. As he is not to represent the interests or local wants of the county of Dutchess or Montgomery; neither is it necessary that he should be acquainted with their particular resources: But in the state governments, as the laws regard the interests of the people, in all their various minute divisions; it is necessary, that the smallest interests should be represented. Taking these distinctions into view, I think it must appear evident, that one discerning and intelligent man will be as capable of understanding and representing the general interests of a state, as twenty; because, one man can be as fully acquainted with the general state of the commerce, manufactures, population, production and common resources of a state, which are the proper objects of federal legislation. It is to be presumed, that few men originally possess a complete knowledge of the circumstances of other states. They must rely, therefore, on the information, to be collected from the representatives of those states: And if the above reasoning be just, it appears evident, I imagine, that this reliance will be as secure as can be desired.

Sir, in my experience of public affairs, I have constantly remarked, in the conduct of members of Congress, a strong and uniform attachment to the interests of their own state:—These interests have, on many occasions, been adhered to, with an undue and illiberal pertinacity; and have too often been preferred to the welfare of the Union. This attachment has given birth to an unaccommodating spirit of party, which has frequently embarrassed the best measures: It is by no means, however, an object of surprize. The early connections we have formed; the habits and prejudices in which we have been bred, fix our affection so strongly, that no future objects of association can easily eradicate them: This, together with the entire and immediate dependence the representative feels on his constituent, will generally incline him to prefer the particular before the public good.

The subject, on which this argument of a small representation has been most plausibly used, is taxation. As to internal taxation, in which the difficulty principally rests, it is not probable, that any general regulation will originate in the national legislature. If Congress in times of great danger and distress, should be driven to this resource, they will undoubtedly adopt such measures, as are most conformable to the laws and customs of each state: They will take up your own codes and consult your own systems: This is a source of information which cannot mislead, and which will be equally accessible to every member. It will teach them the most certain, safe and expeditious mode of laying and collecting taxes in each state—They will appoint the officers of revenue agreeably to the spirit of your particular establishments; or they will make use of your own.

Sir, the most powerful obstacle to the members of Congress betraying the interests of their constituents, is the state legislatures themselves; who will be standing bodies of observation, possessing the confidence of the people, jealous of federal encroachments, and armed with every power to check the first essays of treachery. They will institute regular modes of enquiry: The complicated domestic attachments, which subsist between the state legislators and their electors, will ever make them vigilant guardians of the people's rights: Possessed of the means, and the disposition of resistance, the spirit of opposition will be easily communicated to the people; and under the conduct of an organized body of leaders, will act with weight and system. Thus it appears, that the very structure of the confederacy affords the surest preventives from error, and the most powerful checks to misconduct.

Sir, there is something in an argument, that has been urged, which, if it proves any thing, concludes against all union and all government;

it goes to prove, that no powers should be entrusted to any body of men, because they may be abused. This is an argument of possibility and chance; one that would render useless all reasonings upon the probable operation of things, and defeat the established principles of natural and moral causes. It is a species of reasoning, sometimes used to excite popular jealousies, but is generally discarded by wise and discerning men. I do not suppose that the honorable member [George Clinton] who advanced the idea, had any such design: He, undoubtedly, would not wish to extend his argument to the destruction of union or government; but this, Sir, is its real tendency. It has been asserted, that the interests, habits and manners of the Thirteen States are different; and hence it is inferred, that no general free government can suit them. This diversity of habits, &c. has been a favorite theme with those who are disposed for a division of our empire; and like many other popular objections, seems to be founded on fallacy. I acknowledge, that the local interests of the states are in some degree various; and that there is some difference in their habits and manners: But this I will presume to affirm; that, from New-Hampshire to Georgia, the people of America are as uniform in their interests and manners, as those of any established in Europe.—This diversity, to the eye of a speculatist, may afford some marks of characteristic discrimination, but cannot form an impediment to the regular operation of those general powers, which the Constitution gives to the united government. Were the laws of the union to new-model the internal police of any state; were they to alter, or abrogate at a blow, the whole of its civil and criminal institutions; were they to penetrate the recesses of domestic life, and controul, in all respects, the private conduct of individuals, there might be more force in the objection: And the same constitution, which was happily calculated for one state, might sacrifice the welfare of another. Though the difference of interests may create some difficulty and apparent partiality, in the first operations of government, yet the same spirit of accommodation, which produced the plan under discussion, would be exercised in lessening the weight of unequal burthens. Add to this, that, under the regular and gentle influence of general laws, these varying interests will be constantly assimilating, till they embrace each other, and assume the same complexion. [Childs, *Debates*, 43–47]

HAMILTON. Under the present Confederation 26 Men may do every thing that the proposed Governmt. may do—and 18 of these may form a Majority—

Under the new Governmt. the proportionate Streng[t]h in the Legislature is gain[e]d because the Vote per Capite—members will attend as their State Constituents will require it—

As to the Albany member [i.e., John Lansing, Jr.] The Representation ought to be small because you will more easily obtain men to attend and who will engage to attend—

A Quorum of the House of Commons 40, but every great Question a Numerous Body attends—

Corruption in the House of Com

1st. the Rotton Burroughs—

2d. The Scotch Members²⁶—

The County Members obliges the Crown to change his Men and Measures, and preserved the Liberties of the People—

The[y] Began with Small powers—

The Represent of the People always encrease their Powers

As to his Excy. Govr. [i.e., George Clinton]

The Members from other States must take Information from the State Members—

Is not that the Case in our own State—

New York must take Information from Ulster or Dutchess as to Agriculture or Manufactures—

Information is not encreased in proportion to the encrease of Numbers—

A few Intelligent Men can give all the Information from any State that is necessary—

Internal Taxes cannot be regulated by the General Governmt. unless in Times of War or great Distress—If that must be done your own Laws or Sistem must be by them adopted—

It appears to me the State Governmts. can better watch their General Representatives than their State Representatives—

The People at a Distance in the State must depend on partial Information

The State Govt. can establish regular methods of Enquiry Act with more System and acquire more certain Informat. of their National Representatives than the people of the State of their Rulers.

Something in this Argumt. proves there should not be any Union—

If it is improper to entrust them to make War, peace, raise Taxes, there cannot be a union—

After a Representation gets to a certain Number it will be sufficient—When the Number is Sufficient for all the Business and a Sufficient Guard agt. Corruption, there the number should Cease—More would be injurious—and if intended to raise a usurpation more Dangerous—

Manners and Habits of the different States not so great as the Counties in the large States or in Great Britain—

Position

As the Clause no[w] Stands it will operate to establish a large Representation— [McKesson's Notes, NHi]

GEORGE CLINTON. The gentleman [Alexander Hamilton] has attempted to give an unjust and unnatural colouring to my observations. I am really at a loss to determine whence he draws his inference. I declare, that the dissolution of the Union is, of all events, the remotest from my wishes. That gentleman may wish for a consolidated—I wish for a federal republic. The object of both of us is a firm energetic government: and we may both have the good of our country in view; though we disagree as to the means of procuring it. It is not fair reasoning, to infer that a man wants no government at all, because he attempts to qualify it so as to make it safe and easy. [Childs, *Debates*, 47]

CLINTON. It is fair to say “that because a man would wish to encrease the Representation or to limit their Powers—that he did not wish to have any Government at all[”]—

I wish for a nervous²⁷ Vigourous Govermt. And to preserve Freedom— [McKesson's Notes, NHi]

MELANCTON SMITH. The present Confederation may exercise (and by a Smaller Number) every Power of the other—

But under what Checks—where is the Money—they must call on the State Legislatures to raise the money (if they please)—

How are the State Governmts. to contrive to give the People better Informations of the Transactions of the State Government—than of their Own— [McKesson's Notes, NHi]

ALEXANDER HAMILTON. I only rise to observe that the gentleman [George Clinton] has misunderstood me. What I meant to express was this; that if we argued from possibilities only; if we reasoned from chances, or an ungovernable propensity to evil, instead of taking into view the controul, which the nature of things, or the form of the constitution provided; the argument would lead us to withdraw all confidence from our fellow-citizens, and discard the chimerical idea of government: This is a true deduction from such reasoning. [Childs, *Debates*, 47]

HAMILTON. The State Governmt. will inform the People of the abuses of the State [McKesson's Notes, NHi]

* * * * *

MELANCTON SMITH then made a few observations, after which, the committee rose, and the convention adjourned to Monday morning at ten o'clock. [Childs, *Debates*, 47]

1. The text in angle brackets is a close paraphrase of the last paragraph of "Cato" V, *New York Journal*, 22 November 1787 (RCS:N.Y., 279–80). The Constitution apportioned six representatives to New York in the first House of Representatives.

2. The text in angle brackets is also based upon text found in "Cato" V, *New York Journal*, 22 November 1787 (RCS:N.Y., 279. See also note 5 on p. 280, for references to Algernon Sidney and Montesquieu.).

3. After listening to Williams' speech, Federalist Morgan Lewis asked Antifederalist Charles Tillinghast "who wrote Mr. Williams's Speech" since it was better than Williams was capable of producing (Tillinghast to John Lamb, 21 June, below).

4. The reference is to the three-fifths clause of the Constitution (Article I, section 2, clause 3).

5. Passed on 27 January 1789, the New York law for the election of representatives to the U.S. House of Representatives divided the state into six districts. Each district was to elect a representative who needed to receive only the "greatest Number of votes" or a plurality (DHFFE, III, 361). Massachusetts provided that a candidate had to receive a majority of votes to represent his district (DHFFE, I, 510). Massachusetts had eight election districts and in only four of them did candidates receive a majority of votes. As a result, new elections had to be called in the districts in which no candidate had received a majority (DHFFE, I, 543). The Hampshire-Berkshire District had five elections before Theodore Sedgwick obtained a majority vote. New Hampshire provided that a candidate running for one of three at-large seats in the first U.S. House of Representatives had to win more than one-sixth of the vote (DHFFE, I, 770, 790–91).

6. Smith quotes the first two sentences of the Marchese di Beccaria's introduction to *An Essay on Crimes and Punishments* (1764) as quoted in the Second Continental Congress' address to the inhabitants of Quebec. In "A Countryman" I, De Witt Clinton also quoted Beccaria from this address, dated 26 October 1774. (See "A Countryman" I, *New York Journal*, 6 December 1787, [RCS:N.Y., 374, 377n–78n].)

7. This proverb has often been attributed to the great English Whig politician, Sir Robert Walpole (1676–1745).

8. Under the new Constitution, the new Congress would have 65 members in the House of Representatives and 26 in the Senate. In each house a majority constituted a quorum to do business; in other words 33 members in the House and 14 in the Senate, making a total of 47, not 46. A majority of 33 is 17 and a majority of 14 is 8. This meant that 25 members, not 24, "being secured, may carry any point."

9. Possibly a reference to an action taken by Congress in March 1783 that granted Continental Army officers pensions of full pay for five years, replacing Congress' October 1780 promise of half-pay for life (the standard European pension for military officers). In 1783 Alexander Hamilton was a member of Congress, where he strongly supported the demands of the officers.

10. Under the new Constitution, New York would have two senators and six representatives in the first Congress.

11. The reference is to James Wilson's 24 November 1787 speech in the Pennsylvania Convention. For two versions of this speech, see RCS:Pa., 340–50, and 350–63, especially pp. 341–42, 352–53. For the circulation of this speech in New York, see CC:289.

12. See note 8 (above).

13. Possibly a reference to John Williams' speech opening this day's debates, although Williams used the term "well digested democracy" instead of "pure democracy" (RCS:N.Y., 1747).

14. The Spartan Ephori and the Roman Tribunes were discussed in *The Federalist* 63, *Independent Journal*, 1 March (CC:582). See especially CC:Vol. 4, p. 297.

15. See "Federal Farmer," *An Additional Number of Letters to the Republican*, 2 May 1788 (RCS:N.Y., 990–91).

16. Hamilton refers to the fact that, like the state constitution, the new Constitution did not require property qualifications for officeholders.

17. Hamilton responds to Melancton Smith who had stated that "Men in the middling class . . . will not be so anxious to be chosen as those of the first. When the number is so small the office will be highly elevated and distinguished—the style in which the members live will probably be high—circumstances of this kind, will render the place of a representative not a desirable one to sensible, substantial men, who have been used to walk in the plain and frugal paths of life." (RCS:N.Y., 1751.)

18. Hamilton responds to Melancton Smith (RCS:N.Y., 1752).

19. John Williams (21 June) had defended the Confederation, criticizing those critics of the Articles who exaggerated their weakness.

20. See at note 8, and note 8 (above).

21. The British House of Commons had 558 members.

22. At this point Harison wrote "(turn to the last Leaf where what is below the Line was Mr. Lansingh's Argumt.[.])." The text in angle brackets is the material "below the Line."

23. Shays's Rebellion.

24. Under the Articles of Confederation, a state had to have at least two delegates to cast their votes in order for the state's vote to count. Since important questions had to be carried by nine states, as few as 18 delegates could determine "great questions."

25. See at note 8, and note 8 (above) for the adoption of "great questions" in the new Congress by as few as 25 members, not 24 members.

26. The great aristocratic families or houses controlled who was elected to Parliament. In the eighteenth century, the Scottish parliamentary vote (45 members) usually lined up with the government.

27. "Strong, vigorous, robust."

Private Commentary on the Convention, 21 June 1788

*Charles Tillinghast to John Lamb
Poughkeepsie, 21 June 1788¹*

The Governour informs me that he has written to you on the subject of the Letters from Virginia²—I am happy to inform you that our Friends here continue firm in the Opposition, and that all the Arts of a Hamilton &c will have no effect, altho he, the Chancellor, & Mr. Jay are continually singling out the Members in Opposition (when out of Convention) and conversing with them on the subject. The latter's manners and mode of address would probably do much mischief, were the members not as firm as they are—

I can assure you that Mr. Smith and Mr. Lansingh keeps close to Hamilton—Smith before the Convention breaks up *will shine*.—The

Governour spoke a few Words to-day in reply to Mr. Hamilton, his observations seem'd to make an impression on the *bystanders*—I believe they are greatly disappointed in finding that there are more speakers in the Opposition than they counted on—Morgan Lewis ask'd me this Morning who wrote Mr. Williams's Speech, (with which he opened the Convention today—he had penned it) I told him that I had no doubt it was his own Composition, he said that he was not equal to it—Greswold, who was Standing by, said that he had compiled it from *York News Papers*—I replied if so, he had as much credit with me, as Mr. Hamilton had, *for retailing, in Convention, Publius*³—this silenced the Gentlemen—You would be surprised, did you not know the Man, what an *amazing Republican* Hamilton wishes to make himself be considered—*But he is known*—

The Sloop goes off in ten Minutes, and as I write this at Dr. Tappen's,⁴ shall not have time to add more, than that I have been treated by the Governour with every mark of attention, he offered me a part of his Bed—but Judge Smith procured me Lodgings at his Sister's—Where Anthony⁵ and myself take up our Quarters—

Be pleased to present my Love to Mama, Sister Sally, Aunt Parine & Clarry—Anthony sends his also—

Be pleased to send the inclosed—

I am Dr Sir with the greatest affection Your obedient Son

P.S. I find myself much better for the jaunt—

1. RC, Lamb Papers, NHi.

2. Tillinghast refers to George Clinton's letter to John Lamb, 21 June (below), concerning the New York Federal Republican Committee's correspondence seeking the co-operation of Antifederalists from Virginia (and other states) in obtaining amendments to the Constitution.

3. The reference is to *The Federalist*, of which Alexander Hamilton was one of the authors.

4. Peter Tappen.

5. Probably Anthony Lamb, John Lamb's son.

New York Convention Antifederalist Committee of Correspondence to George Mason, 21 June 1788

In mid-May the Antifederalist Federal Republican Committee of New York—intent on adopting amendments before nine states ratified the Constitution—wrote prominent Antifederalists in several states, among them Virginia, requesting cooperation in obtaining amendments to the Constitution (CC:750-A). The Virginia and New York Conventions were scheduled to meet on 2 and 17 June, respectively. The letters to Virginia—signed by committee chairman John Lamb—were addressed to William Grayson, Patrick Henry, and George Mason, delegates to the Virginia Convention. A fourth letter was written to Antifederalist leader Richard Henry Lee, who was not a Convention delegate.

Because the New York committee refused to trust the letters to the mails, Eleazer Oswald, the printer of the Antifederalist Philadelphia *Independent Gazetteer*, carried the letters to Virginia, arriving there on 7 June. (Lee was not in Richmond and he did not receive the letter until 27 June.) On 9 June, or shortly thereafter, Oswald set out for New York, carrying letters of that date from Grayson, Henry, and Mason. The Virginians informed John Lamb that they had formed a “Comm[itt]ee of Opposition” or a “Republican Society” and had drafted amendments to the Constitution. Other amendments were being prepared (CC:750 C–E). George Mason enclosed a copy of the amendments in his letter.

The three Virginians wrote that their state Convention was evenly divided. Mason told Lamb that, if “the Majority will be on our Side . . . an official Communication will immediately take place” between the Virginia and New York conventions. At present, he said, Virginia did not have an organization equivalent to the New York Federal Republican Committee. According to Henry, if the Virginia Convention ratified the Constitution, Virginia’s Antifederalists would form their own Republican Society. On Oswald’s arrival in New York City on 16 June, he informed John Lamb that Patrick Henry and other Virginians recommended that New York take the lead and appoint a delegation to meet with one from the Virginia Convention to discuss amendments.

On 17 June, after copies were made of the Virginia letters, Lamb sent them to George Clinton, the president of 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 would carry the news to Virginia immediately (below). On 21 June Clinton wrote Lamb that he had turned the Virginia letters over to “a Special Committee of Correspondence” chaired by New York Convention delegate Robert Yates (below). On the same day Yates wrote Mason acknowledging receipt of the Virginia amendments and informing him that the Antifederalists had at least a two-to-one majority in the Convention. Yates told Mason that Antifederalists in the Convention would “not adopt the present Constitution without previous Amendments” which “many of us have agreed to.” Clinton enclosed Yates’s letter to Mason with the enclosed amendments (not found) in his letter to Lamb (below).

For a full discussion of the New York Federal Republican Committee’s attempt at cooperation with the Antifederalists of several states with respect to obtaining amendments to the Constitution, see CC:750 A–Q (CC:Vol. 6, pp. 32–68), and RCS:N.Y., 1097–1102.

John Lamb to George Clinton
*New York, 17 June 1788*¹

I now forward to you (by a special Messenger)² the Letters from our Friends in Virginia which, were brought yesterday Evening, by Colo. Oswald³ himself as he did not think proper to risque them, with any other Person.

Colo. Oswald says, that, Mr. Henry,⁴ 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.⁵

From the best information Colo. Oswald could obtain, all the Members from Kentucky, are opposed to the New Constitution;⁶—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 1788⁷*

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 delivered⁸ —~~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.⁹

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 forwarding¹⁰—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. Lamb¹¹ will stay with me until Tuesday, which induces me to send this by Captain North¹² 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 copied¹³

Robert Yates to George Mason
*Poughkeepsie, 21 June 1788*¹⁴

Your Letter of the 9th. Inst.¹⁵ directed to John Lamb Esquire at New-york Chairman of the federal Republican Committee in that City enclosing your proposed Amendments to the new Constitution, has been by him transmitted to such of the Members of our Convention, who are in Sentiment with him. In consequence of this Communication a Committee has been appointed by the Members in Opposition to the New System (of which they have appointed me their Chairman) with a special View to continue our Correspondence on this necessary and important Subject.

We are happy to find that your Sentiments with respect to the Amendments correspond so nearly with ours, and that they stand on the Broad Basis of securing the Rights and equally promoting the Happiness of every Citizen in the Union. Our Convention of which his Excellency George Clinton is President commenced their Session on Tuesday last [17 June]. We yeilded to a Proposal made by our Opponents to discuss the Constitution in a Committee of the whole, without putting a Question on any Part, provided that in the Course of this Discussion, we should suggest the Amendments or Explanations, which we deemed necessary to the exceptionable Parts—Fully relying on the Steadiness of our Friends, we see no Danger in this Mode and we came into it to prevent the Opposition from charging us with Precipitation.

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

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

You may rely on our fixed Determination that we shall not adopt the present Constitution without previous Amendments—We have had no Committee to draft Amendments, we therefore transmit you a Copy of those which many of us have agreed to.¹⁶ It is however possible upon farther Consideration that some of these may be modified or altered and others perhaps dropt.

1. RC, Lamb Papers, NHi.

2. The messenger was Charles Tillinghast, Lamb's son-in-law and the secretary of the New York Federal Republican Committee.

3. Eleazer Oswald (1755–1795), an Englishman who came to America in 1770, was the printer of the Philadelphia *Independent Gazetteer*, which he had established in 1782. Oswald had several connections to New York. Before the Revolution, he served his apprenticeship under John Holt, the publisher of the *New-York Journal*. During the Revolution, he rose to the rank of lieutenant colonel in the Continental Army, serving under Colonel John Lamb. Between 1782 and 1784, while living in Philadelphia, Oswald helped John Holt operate *The Independent Gazette; or the New-York Journal Revived*. After Holt's death in 1784, Oswald assisted Holt's widow, Elizabeth, with the publication until January 1787, when the newspaper was sold to Thomas Greenleaf. (For more on Oswald, especially his activities as an Antifederalist newspaper publisher, see CC:Vol. 1, pp. xxxv–xxxvi.)

4. Patrick Henry (1736–1799), a Prince Edward County lawyer, was a delegate to Congress, 1774–75, and governor of Virginia, 1776–79, 1784–86. He refused appointment to the Constitutional Convention in 1787, but represented Prince Edward County in the Virginia Convention, where he voted against ratification of the Constitution.

The other two gentlemen were George Mason and William Grayson. Grayson (c. 1736–1790), a Prince William County lawyer, served in the Virginia House of Delegates, 1784–85, 1788, and in Congress, 1785–87. As a delegate to the Virginia Convention, Grayson voted against ratification of the Constitution in June 1788. For Mason, see note 14 (below).

5. The pamphlet written by James Monroe, a lawyer and a Spotsylvania County delegate to the Virginia Convention, was entitled *Some Observations on the Constitution* and was published shortly before the Virginia Convention convened on 2 June. Although Monroe supported increasing the powers of Congress while a congressman from 1783 to 1786, he opposed the Constitution. In his pamphlet, he outlined his objections and argued that the Constitution should not be adopted without previous amendments. He was also convinced that a second constitutional convention would improve the Constitution. In

the Virginia Convention, Monroe voted against ratification of the Constitution without previous amendments. For his pamphlet, see CC:754; and RCS:Va., 844–77.

6. In the Virginia Convention, delegates from the seven Kentucky counties voted 10 to 3 against the ratification of the Constitution, with one absent.

7. RC, Lamb Papers, NHi.

8. The reference is to *The Federalist* essays by “Publius,” which had appeared by 28 May, in newspapers and in a two-volume book edition.

9. On 20 June, Alexander Hamilton called for a government with “national laws to operate on individuals, in the same manner as those of the states do” (Convention Debates [Childs], 20 June, above). 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” (Convention Debates [Childs], 21 June, above).

10. See Robert Yates to Mason, 21 June (below).

11. Anthony Lamb, John Lamb’s son.

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

13. This paragraph is not in Clinton’s handwriting.

14. RC, Emmet Collection, NN. This letter, written by an amanuensis, was signed by Yates. The date is written over and therefore it is not certain, but it appears to be the “21st.” This letter was finished in time to be taken by the sloop that was about to leave for New York City. (For the sloop’s departure, see Clinton to Lamb, 21 June, at note 12, and Charles Tillinghast to Lamb, 21 June, at note 4, both above.) Mason (1725–1792), a Fairfax County planter, was the principal author of the Virginia Declaration of Rights and Virginia Constitution, 1776. He was a delegate to the Constitutional Convention, 1787, where as a frequent speaker, he supported strengthening the central government, but insisted that the rights and liberties of the people had to be protected. Mason refused to sign the Constitution and his objections to the Constitution were widely published. (See “New York Reprinting of George Mason’s Objections to the Constitution,” 30 November–13 December 1787, RCS:N.Y., 338–40.) As a delegate to the Virginia Convention, he voted against ratification of the Constitution.

15. For Mason’s letter of 9 June to John Lamb, see CC:750–E.

16. No copy of these amendments has been located.

The New York Convention Monday 23 June 1788

Convention Debates, 23 June 1788

RICHARD HARISON. The subject under consideration, Mr. Chairman, is of the highest importance. It is a subject, with which, the liberties, the prosperity, and the glory of our country are most intimately connected: It has very properly employed the time and attention of the greatest and wisest men. Impressed with the most earnest desire to discover truth, and to acquit myself well in defence of its cause, I have listened with attention, to the gentlemen, who have spoken before me.

It may, at first view, appear unnecessary to enlarge on a point, which has undergone so thorough a discussion: But, I trust, the committee will consider no time lost, which is spent on this interesting subject.

The gentlemen, who have preceded me in the debate, however they may have differed with respect to certain points, have agreed in others of capital importance, and which I shall beg leave in a concise manner to review. It is conceded, that the old confederation is inadequate to the purposes of good government; that, for its support, it has no other resources, but feeble requisitions, which may be complied with, or rejected by the states as whim, caprice, or local interest may influence them: In this point, the gentlemen have agreed that a remedy is necessary. The second point agreed on, and which is of equal consequence, is, that a close union is essential to the prosperity of the states: That therefore, some measure should be pursued to strengthen that union, and prevent a dissolution. But, Sir, interesting as these points are, there is another which on all sides has been conceded, and which shall ever govern my conduct.—It is, that although the union ought to be secured, we are, by no means to sacrifice to it the liberties of the people. It is our duty, Sir, to abandon prejudices, and examine the constitution closely and candidly; and if we find that it leads to the sacrifice I have mentioned, we shall undoubtedly reject it: But, if on the contrary, we discover that its principles tend to unite the perfect security of liberty with the stability of union, we shall adopt it with an unanimity, which will recommend it to the confidence of the people.

I come now, Sir, to offer a few ideas on the article under debate.—Among the objections, that, which has been made to the mode of apportionment of representatives, has been relinquished. I think this concession does honor to the gentleman [Melancton Smith] who stated the objection. He has candidly acknowledged, that this apportionment was the result of accommodation; without which no union could have been formed. But, Sir, there are other objections, which are certainly plausible; and which, were they made to the paragraph, in its genuine sense, I would acknowledge to be forcible. The gentlemen first consider the house of representatives as too small, and not capable of representing the interests of their constituents. I cannot, by any means, agree with them, that there probably will be a time, when six men cannot in this state be found, sufficiently honest and well informed, to represent the feelings as well as interests of the body of the people. The gentlemen should, in the debate, have adverted to this circumstance, that the number, as well as the apportionment of representatives was a matter of conciliation; that some states, impressed with a sense of the public burthens, were willing to oppress the people as little as possible: They

were disinclined to have that body more numerous than was requisite to ensure and protect their liberties and their true interests. We might suppose the number proposed in the constitution to be inadequate: They were of a different opinion. But, Sir, though the number specified in this article, were barely sufficient, or even too small—yet, I contend, that it is a thing merely temporary; and that the article itself clearly provides a remedy. An honorable gentleman [Alexander Hamilton], who preceded me, has proved, that the article contemplates and secures a regular increase of the representation. I confess that my mind is entirely satisfied with his reasoning.

I beg leave, however Sir, to state the subject to the committee in one more point of light. It appears to me, that the gentlemen who have supposed that Congress have it in their power to reduce the number, have not attended, with sufficient care, to the language of the paragraph. It is declared, that the representation shall be in proportion to the number of inhabitants, and that every state shall have at least one. The state of Delaware may contain about thirty-three thousand inhabitants. Every gentleman, acquainted with that state, knows that it has been long settled, and probably has been for some time stationary in point of population. While the large tracts of vacant territory in the states which surround it hold out so many allurements to emigration; I am convinced, there is no prospect of its increasing; at least for a very long period of years:—When I make this observation, I think I argue from established principles. From this I infer, that there is the utmost probability, that the number of Delaware will be taken as the standard. If this be done, the number composing the house of representatives, after the first census, will be more than sixty-five, which is the present number; because this specified number is calculated on the ratio of about one for forty thousand: Upon the same principles, while Delaware is stationary, and the population of the other states advances rapidly, the number of Delaware will continue to be the standard: Thus if Delaware, at the first census, contains thirty-five thousand inhabitants, New-York may then contain about two hundred and sixty-five thousand, and will be entitled to eight representatives. To pursue the argument a little further; it will ever be the interest of the larger states to keep the ratio uniform, by assuming the number of the smallest state as the standard; because, by this, as the smallest state will be confined to one, the relative influence of the larger states will be augmented.—For example—if Delaware possesses thirty thousand, and Maryland a hundred thousand, it will be the interest of Maryland to fix the ratio at one for thirty, and not one for forty thousand; because, in the first case, she will have three representatives, or two more than Delaware; in the

latter, she will have only two representatives, or one more than Delaware. This reasoning appears to me to lead to mathematical certainty.

According to the ratio established in the Constitution, as the number of inhabitants in the United States increases, the number of representatives would also increase to a great degree, and in a century, would become an unwieldy mob. It is therefore expedient and necessary, that the constitution should be so framed, as to leave to the general legislature, a discretionary power to limit the representation by forming a new ratio. These considerations have left no doubt in my mind, of the propriety of the article under debate. I am clear that it contemplates an increase, till the extensive population of the country shall render a limitation indispensable. What then is the object of our fears? I am convinced, that a legislature, composed of ninety-one members, is amply sufficient for the present state of our country. I have too high an opinion of the integrity of my fellow-citizens to believe they will or can be corrupted in three years; and at the expiration of this term, the increase I mention will most assuredly take place. Let us therefore dispel all visionary apprehensions on this subject, and disregarding possible dangers, let us reason from the probable operation of things, and rely on this for our safety. [Childs, *Debates*, 47–50]

◆

HARISON. Importance of the Quest.

It is admitted

1st. That the present Confederat. is inadequate for want of Coercive power—having no means but war

2d Essential to the Happiness of the Country that our Union should remain

but there is a third

Altho' we are to provide for the defects of the Confe[de]rat[ion] & Secure our union Yet we cannot give up the Liberties of the People

These being agreed we will with unanimity & temper consider whether the Constitution will not

It has been agreed with Candour that the 3/5th.¹ &ca. must be given up for Union—

There are other Objections vizt.

1st That the Number of Represent[at]ives in assembly Not Sufficient
Answer

Six Men may be found in the State sufficient to the Knowledge of the Circumstances of the State

Six as good as 20—

Should remember the Number was a matter of Accommodation

Some from their Circumstances unwilling to Support[t] a larger Number

By the Articles themselves provision is made for a larger Number in a few Years—

A member (Mr. Hamilton) has stated the matter fully

I State this matter in *one more Light*

As to the Language—Represent[ation] agreeable to the Numbers of Inhabitants—yet every State to have 1 Represent[ative]

Delaware 33,000 Inhabitants—it will remain Stationary

This is arguing from natural Causes—

Delaware cannot encrease—This State will encrease—

this and the other encreasing States must have an Increase of Representation

at the End of 3 years Delaware will have, and if then 3, mill [i.e., 3 million] there will be 90 Represent—

at 25 or 30 years the Representatives be what Massachussets have desired²—Perhaps Considering the growing Country it might be right to have more Representatives

Perhaps in a Century Delaware may be 50 thousand by that Time the Representation may be so large that it would be improper to encrease it—And then perhaps 300 will be a Sufficient Representation for the whole Union—

I trust that Men Chosen for their Superior Virtue or Superior Fortune cannot be so far lost to their own Interest as to suffer Corruption—

From the Circumstances of the Country wise to have a Small No. and there is provision to encrease it

It will work advantages to this State and Security to the Liberties of every Man among us— [McKesson's Notes, NHi]



HARISON. Conceded by all

1. That the Confederation is inadequate—

2d. That union is necessary

3d. That we ought not to give up the Liberties of the people—

The numbers a matter of accomodation—ought to have noticed—two principles Pervade &ca

1. Rep. shall be apportioned according—

2. Each State is to have one—

Delaware 33 th[ousan]d—

will not increase because nearly full—

This State must have a greater number—

3 Years we must have 90 Members—

To return [to] the mass of the people—and share the comm[on] burden— [Melancton Smith, Notes, N]

* * * * *

JOHN LANSING, JR. I do not rise, Mr. Chairman, to answer any of the arguments of the gentlemen; but to mention a few facts. In this debate, much reliance has been placed on an accommodation, which took place in the General Convention.—I will state the progress of that business. When the subject of the apportionment of representatives came forward, the large states insisted, that the equality of suffrage should be abolished: This, the small states opposed; contending that it would reduce them to a state of subordination. There was such a division, that a dissolution of the convention appeared unavoidable; unless some conciliatory measure was adopted. A committee of the states was then appointed, to agree upon some plan for removing the embarrassment:—They recommended, in their report, the inequality of representation, which is the ground work of the section under debate. With respect to the ratio of representation, it was at first determined, that it should be one for forty thousand: In this situation, the subject stood, when I left the convention.³ The objection to a numerous representation, on account of the expence, was not considered as a matter of importance: Other objections to it however were fully discussed; but no question was taken.

Sir, I rose only to state this subject in the point of view in which it appeared to me: I shall however, since I am up, pay some attention to the arguments which have been advanced. It is acknowledged, that this clause may be so construed, as that, if the people of the smallest state shall amount to fifty thousand, this number may be taken as the ratio. What then is to controul the general government? If I understand the gentlemen right, they grant, that by the plain construction of the clause, Congress *may* fix the ratio as high as they please: If so, they will have no other controul, than the precarious operation of interest. Now, the very argument of the gentlemen, on the point of interest, seems to imply, that it will be the interest of the small states to limit the representation: For these states, like Delaware, not increasing, will be interested in allowing the growing states as small a number of representatives as possible, in proportion to their own. If then, it be the interest of the larger states, to augment the representation, it will be equally the interest of the smaller states to diminish it; and their equal suffrage in the senate will enable them to oppose the policy of the large states with success.

In the discussion of this subject, it has been found necessary to bring several objections into view, which will not be very strongly insisted on: The gentleman [Melancton Smith], who suggested them, declared that he did not intend they should embarrass or prolong the debates. He only mentioned them to shew that it would be our disposition to conciliate in certain points of inferior magnitude; provided we could secure such essential rights of the people, as we supposed this constitution would have a tendency to infringe. The question has been fully discussed; and I believe few new lights can be thrown on it.—Much time will be spent, if we pursue the investigation in so slow and minute a manner. However, if the subject can receive any further elucidation, I shall not think the time lost. [Childs, *Debates*, 50–51]



LANSING. when the Representation was under Consideration the larger States insisted on a Representation according to No.

The Smaller States opposed—

A Committee of one member from each State appointed

The Report was an equal Suffrage in the upper House—and a Representative for every 40,000 in the lower House

I[t] did not appear to be a matter much

I shall consider Argumt. with a new face—

what can shew 50,000 should be the Criterion

Suppose Delaware 50,000—If the Genl. Govt. should fix 60,000 who is to oppose it—not the Smaller States for each must have one Represent it will increase the weight—

It is necessary in some Cases to mention Argumts. which are not intended to be insisted on—

Exam. The 3/5ths. to Shew that will give up every thing not essential to Liberty for the Sake of Union— [McKesson's Notes, NHi]

* * * * *

ALEXANDER HAMILTON. It is not my design, Mr. Chairman, to extend this debate by any new arguments on the general subject.—I have delivered my sentiments so fully on what has been advanced by the gentlemen this morning, that any further reasonings from me will be easily dispensed with. I only rise to state a fact, with respect to the motives which operated in the general convention. I had the honor to state to the committee the diversity of interests which prevailed between the navigating and non-navigating—the large and the small states; and the influence which those interests had upon the conduct of each. It is true, a difference did take place between the large and small states; the latter insisting on equal advantages in the house of representatives.

Some private business calling me to New-York, I left the Convention for a few days: On my return, I found a plan, reported by the committee of details; and soon after, a motion was made, to increase the number of representatives.⁴ On this occasion the members rose from one side and the other, and declared, that the plan reported was entirely a work of accommodation;—and that to make any alterations in it, would destroy the Constitution. I discovered that several of the states, particularly New-Hampshire, Connecticut and New-Jersey, thought it would be difficult to send a great number of delegates from the extremes of the continent to the national government: They apprehended their constituents would be displeas'd with a very expensive government; and they considered it as a formidable objection. After some debate on this motion, it was withdrawn. Many of the facts stated by the gentleman [John Lansing, Jr.] and myself are not substantially different. The truth is, the plan in all its part was a plan of accommodation. [Childs, *Debates*, 51]

◆

HAMILTON. It is true the great object of the Smaller States was an equal Suffrage in Senate—but some of them also wished to retain what advantages in Suffrage the[y] Could in the other House

I was absent 10 days—found on Return the plan as it now is—A Motion was made to encrease the Numbers—It was declared that the Number was the Effect of Compromise—

New Hampshire & the South declared the difficulty of Send[ing] a greater Number into the Center—and the Expence too great—

Some also Saw that the Expence would be made an Argumt agt the Constitution—And many really feared the Expence—Connecticut could not avow but did really compromise some things to preserve their Suffrage in Senate—

The Delegates represented to their State held it up as a merit that the Number was not encreased beyond what it might have been under the Old Confe[de]ration⁵—

It was in all his [i.e., its] parts a Matter of Compromise— [Mc-Kesson's Notes, NHi]

* * * * *

JOHN LANSING, JR. I will enter no further into a discussion of the motives of the convention; but there is one point, in which the gentleman and myself do not agree. The committee of details recommended an equality in the senate: In addition to this, it was proposed, that every forty thousand should send one representative to the general legislature. Sir, if it was a system of accommodation, and to remain untouched, how came that number afterwards to be reduced to thirty thousand?⁶ [Childs, *Debates*, 51]

◆

LANSING. The Committee of 13 Reported an equal Suffrage in the upper House and 40,000 for a Representative in the House— [McKesson's Notes, NHi]

* * * * *

ALEXANDER HAMILTON. I recollect well the alteration which the gentleman alludes to; but, it by no means militates against my idea of the principles on which the convention acted at the time the report of the committee was under deliberation. This alteration did not take place till the convention was near rising, and the business compleated; when his excellency the president expressing a wish that the number should be reduced to thirty thousand; it was agreed to without opposition.⁷ [Childs, *Debates*, 51]



HAMILTON. It was carried on at 40,000 until near the Close—many wanted it to [be] 30,000—The Presidt. (Genl Washington) expressed a wish to have it 30,000—It was agreed to [McKesson's Notes, NHi]⁸

* * * * *

ROBERT R. LIVINGSTON. The gentleman from Dutchess [Melancton Smith] appears to have misapprehended some of the ideas which dropped from me: My argument was, that a republic might very properly be formed by a league of states; but that the laws of the general legislature must act, and be enforced upon individuals. I am contending for this species of government. The gentlemen who have spoken in opposition to me, have either misunderstood or perverted my meaning: But, Sir, I flatter myself, it has not been misunderstood by the convention at large.

If we examine the history of federal republics, whose legislative powers were exercised only on states, in their collective capacity; we shall find in their fundamental principles, the seeds of domestic violence and consequent annihilation. This was the principal reason why I thought the old confederation would be forever impracticable.

Much has been said, Sir, about the number which ought to compose the house of representatives, and the question has been debated with great address by the gentlemen on both sides of the house. It is agreed, that the representative body should be so small, as to prevent the disorder inseparable from the deliberations of a mob; and yet sufficiently numerous, to represent the interests of the people; and to be a safe depository of power. There is, unfortunately, no standard, by which we can determine this matter. Gentlemen who think that a hundred may be the medium, in which the advantages of regular deliberation, and the safety of the people are united, will probably be disposed to support

the plan as it stands; others, who imagine that no number less than three or four hundred can ensure the preservation of liberty, will contend for an alteration. Indeed, these effects depend so much upon contingency, and upon circumstances totally unconnected with the idea of number; that we ought not to be surprized at the want of a standing criterion. On so vague a subject, it is very possible that the opinions of no two gentlemen in this assembly, if they were governed by their own original reflections, would entirely coincide. I acknowledge myself one of those who suppose the number expressed in the constitution to be about the proper medium; and yet future experience may induce me to think it too small or too large. When I consider the objects and powers of the general government, I am of opinion that one hundred men may at all times be collected, of sufficient information and integrity, to manage well the affairs of the union. Some gentlemen suppose, that to understand and provide for the general interests of commerce and manufactures, our legislatures ought to know how all commodities are produced, from the first principle of vegetation to the last polish of mechanical labour; that they ought to be minutely acquainted with all the process of all the arts: If this were true, it would be necessary, that a great part of the British house of commons should be woollen drapers: Yet, we seldom find such characters in that celebrated assembly.

As to the idea of representing the feelings of the people, I do not entirely understand it, unless by their feelings is meant their interests. They appear to me to be the same thing. But if they have feelings which do not rise out of their interests, I think they ought not to be represented. What! Shall the unjust, the selfish, the unsocial feelings be represented? Shall the vices, the infirmities, the passions of the people be represented? Government, Sir, would be a monster: Laws made to encourage virtue and maintain peace, would have a preposterous tendency to subvert the authority and outrage the principles, on which they were founded: Besides, the feelings of the people are so variable and inconstant, that our rulers should be chosen every day: People have one sort of feelings to day, another to-morrow; and the voice of the representative must be incessantly changing in correspondence with these feelings: This would be making him a political weathercock.

The honorable gentleman from Dutchess (Mr. *Smith*) who has so copiously declaimed against all declamation, has pointed his artillery against the rich and the great. I am not interested in defending rich men: But what does he mean by telling us that the rich are vicious and intemperate. Will he presume to point out to us the class of men in which intemperance is not to be found? Is there less intemperance in

feeding on beef than on turtle; or in drinking rum than wine? I think the gentleman does not reason from facts: If he will look round among the rich men of his acquaintance, I fancy he will find them as honest and virtuous as any class in the community—He says the rich are unfeeling—I believe they are less so than the poor: For it seems to me probable that those who are most occupied by their own cares and distresses, have the least sympathy with the distresses of others. The sympathy of the poor is generally selfish; that of the rich a more disinterested emotion.

The gentleman further observes, that ambition is peculiarly the vice of the wealthy. But, have not all classes of men their objects of ambition? Will not a poor man contend for a constable's staff with as much assiduity and eagerness as a man of rank will aspire to the chief magistracy? The great offices in a state are beyond the view of the poor and ignorant man: He will therefore contemplate a humbler office as the highest alluring object of ambition: He will look, with equal envy, on a successful competitor; and will equally sacrifice to the attainment of his wishes, the duty he owes to his friends or to the public. But, says the gentleman, the rich will be always brought forward: They will exclusively enjoy the suffrages of the people.—For my own part, I believe that if two men of equal abilities set out together in life, one rich, the other of small fortune, the latter will generally take the lead in your government. The rich are ever objects of envy; and this, more or less, operates as a bar to their advancement. What is the fact? Let us look around us: I might mention gentlemen in office who have not been advanced for their wealth; I might instance in particular the honorable gentleman who presides over this state [George Clinton], who was not promoted to the chief magistracy for his riches, but his virtue.

The gentleman, sensible of the weakness of this reasoning, is obliged to fortify it by having recourse to the phantom aristocracy. I have heard much of this. I always considered it as the bugbear of the party. We are told, that in every country there is a natural aristocracy, and that this aristocracy consists of the rich and the great: Nay, the gentleman goes further, and ranks in this class of men, the wise, the learned, and those eminent for their talents or great virtues. Does a man possess the confidence of his fellow-citizens for having done them important services? He is an aristocrat—Has he great integrity? Such a man will be greatly trusted; he is an aristocrat. Indeed, to determine that one is an aristocrat, we need only be assured that he is a man of merit. But, I hope we have many such—I hope, Sir, we are all aristocrats. So sensible am I of that gentleman's talents, integrity and virtue, that we might at once hail him the first of the nobles, the very prince of the senate.—But

who, in the name of common sense, will he have to represent us? Not the rich; for they are sheer aristocrats. Not the learned, the wise, the virtuous, for they are all aristocrats. Who then? Why, those who are not virtuous; those who are not wise; those who are not learned: These are the men, to whom alone we can trust our liberties. He says further we ought not to choose these aristocrats, because the people will not have confidence in them; that is, the people will not have confidence in those who best deserve and most possess their confidence. He would have his government composed of other classes of men: Where will he find them? Why, he must go out into the highways, and pick up the rogue and the robber: He must go to the hedges and ditches and bring in the poor, the blind and the lame.⁹ As the gentleman has thus settled the definition of aristocracy, I trust that no man will think it a term of reproach: For who among us would not be wise? Who would not be virtuous? Who would not be above want? How, again, would he have us guard against aristocracy? Clearly by doubling the representation, and sending twelve aristocrats, instead of six. The truth is, in these republican governments we know no such ideal distinctions.—We are all equally aristocrats. Offices, emoluments, honors are open to all.

Much has been said by the gentleman [John Lansing, Jr.] about corruption: He calculates that twenty-four may give the voice of Congress.—That is, they will compose a bare majority of a bare quorum of both houses[.] He supposes here the most singular, and I might add, the most improbable combination of events: First, there is to be a power in the government who has the means, and whose interest it is to corrupt—Next, twenty-four men are to compose the legislature; and these twenty-four, selected by their fellow citizens as the most virtuous, are all, in violation of their oath and their real interests, to be corrupted. Then he supposes the virtuous minority inattentive, regardless of their own honor, and the good of their country; making no alarm, no struggle: A whole people, suffering the injury of a ruinous law, yet ignorant, inactive, and taking no measures to redress the grievance.

Let us take a view of the present Congress. The gentleman is satisfied with our present federal government, on the score of corruption. Here he has confidence: Though each state may delegate seven, they generally send no more than three; consequently, thirty-nine men may transact any business under the old government; while, the new legislature, which will be in all probability constantly full, will consist of ninety-one. But, say the gentlemen, our present Congress have not the same powers.—I answer they have the very same. Congress have the power of making war and peace, of levying money and raising men;

they may involve us in a war at their pleasure; they may negotiate loans to any extent, and make unlimited demands upon the states. Here, the gentleman comes forward, and says, that the states are to carry these powers into execution; and they have the power of non-compliance. But is not every state bound to comply? What power have they to controul Congress in the exercise of those rights, which they have pledged themselves to support? It is true, they have broken, in numerous instances, the compact by which they were obligated; and they may do it again: But, will the gentleman draw an argument of security from the facility of violating their faith? Suppose there should be a majority of creditor states, under the present government; might they not combine and compel us to observe the covenant, by which we had bound ourselves?

We are told, that this constitution gives Congress the power over the purse and the sword. Sir, have not all good governments this power? Nay, does any one doubt, that under the old confederation, Congress holds the purse and the sword? How many loans did they procure, which we are bound to pay? How many men did they raise, which we were bound to maintain? How will gentlemen say, that that body, which indeed is extremely small, can be more safely trusted than a much larger body, possessed of the same authority?—What is the ground of such entire confidence in the one—what the cause of so much jealousy of the other?

An honorable member from New-York [Richard Harison], has viewed the subject of representation in a point of light which had escaped me; and which, I think clear and conclusive. He says, that the state of Delaware must have one; and as that state will not probably increase for a long time, it will be the interest of the larger states to determine the ratio, by the number which Delaware contains. The gentlemen in opposition say, suppose Delaware contains fifty thousand, why not fix the ratio at sixty thousand? Clearly, because by this, the other states will give up a sixth part of their interests. The members of Congress, also, from a more private motive, will be induced to augment the representation. The chance of their own re-election will increase with the number of their colleagues.

It has been further observed, that the sense of the people is for a larger representation; and that this ought to govern us:—That the people generally are of opinion, that even our House of Assembly is too small.—I very much doubt this fact. As far as my observation has extended, I have found a very different sentiment prevail. It seems to be the predominant opinion, that sixty-five is fully equal, if not superior to the exigencies of our state government: And I presume, that the

people have as much confidence in their Senate of twenty-four, as in their Assembly of sixty-five. All these considerations have united to give my mind the most perfect conviction, that the number specified in the constitution, is fully adequate to the present wants and circumstances of our country; and that this number will be increased to the satisfaction of the most timid and jealous. [Childs, *Debates*, 51–55]

—◆—

R. R. LIVINGSTON. I was misunderstood—

It would be absurdity in Me to say that no federal Govt. could Subsist—

I meant that the federal Govt. which operates only on States and not on Individuals cannot Subsist and are Scenes of Violence—

No Rule what number of Representatives will afford Sufficient Security—

When we consider the Objects of the Genl. Govt. I suppose 100 Men may be found who will be sufficient

If it is necessary that every Representative is raised or manufactured the Greatest part of the Represent of Britain should be wollen Drapers—

If Representatives should know the feelings of his Constituents I suppose that must mean their Interests—

If not it must mean their vices which should not be represented

The Gent from Dutchess [Melancton Smith] who declaimed agt Decamation began with a powerful agt. Rich men—

He [said the] rich are intemperate

He said the Rich are unfeeling because far removed from the Poor

I think the Reverse true—

We all enjoy many conveniences—and if less in any One Class it is in those who suffer most

The Rich are said to be ambitious

Are not all men ambitious

The Rich are not more Intemperate

The Rich will always be elected and bro't forward—

I think the reverse true—

Let two Men of equal Abilities

Example Men Members of Congress Presiding there

Example the Gent who presides over the State, not elected for his wealth

He has next brot forth an Aristocracy

Let us examine this Airy fantom—

He possesses so many these Qualities we might hail him the prince of the Senate

It is highly Improper we should have any Rich any wise any Good Men—

It would be proper to go into the Hedges and Highways and Compel them to come in—

Who have the Community sent here None but Aristocrats

How guard agt. the Evil—Double the Number—That would aid— here are 65.—12 Aristocrats will go farther than Six—

and his reasoning will not help unless 1 wise and good man cannot be found in 20,000—

I now Consider the Argumt. of another Gent. (Mr Lansing) as to the Smallness of the Number & ease to Corrupt them—

Who is to corrupt them—

Where will the others be that they cannot prevent them—

If they should pass a Corrupt Law would not the other Members by Law repeal it—

Let us consider Congress which might be exactly the Same Number—and yet very Seldom more than three or two Members—It is observed Congress have not the Same Powers—

I Say they have the Same Powers—

But the States are to carry it into Execution—

If Yes—And they are bound to do it—If they do not they are guilty of Perfidy—The present Congress (if such a thing there is) have both the purse and the Sword—

Congress emitted Millions—was not this a Tax on the people—have they not Borrowed Vast Sums—must we not pay them—

It is said Congress might diminish the No.—This fully answered by a Gent from New York—

Will not every State wish to encrease their Representation

Will 24 Aristocrats in Senate be Able to prevent it—

There is no rule Whether 100 or 200 would be best—

It is the opinion of the Inhabitants of this State that our Representat is too Large—The[y] have submitted this very Constitution to no More than 65—I believe it is the wishes of the People the Numbers should be some where where it is—

Delegates have only 4 Dollars a day—

Expence 400 Dollars a Day— [McKesson's Notes, NHi]

—◆—
R. R. LIVINGSTON. No rule to fix the proportion

Objects of the govt. general

100 men may be selected

Commercial acqu[aintance] requires extensive—

A mans feelings direct him—

A man who knows the Interest of the people & feels them—a political weather cock—
 declaims agt. rich man—
 intemperance not confined to rich men—
 very rich the most likely to be difft—Solomon thot. otherwise—
 ambition not conf[in]ed to the rich—
 Constables staff—
 The fact does not warrant that the rich will sooner be chosen—
 No Aristocracy conceivable—an airy phantom—
 1st. Rich—
 Wise—
 good—
 Gentleman one [of] the first—wants to bring in those not wise—
 not educated—highly improper to chuse—highways & hedges
 coins the term—
 12 instd. of 6
 65 Aristocrats
 12 farther than 6—
 Congress not corruptible
 1st. Annually elected
 2. recallable
 3. cant serve more than 3 years [in six]
 9 States
 dependt. on the States for living—
 the present Congress the power [i.e., purse] & the Sword
 emitted money—
 Loans—
 No rule to judge
 our people think ours too large—the sense of the people—
 views of Œconomy—not on the acct.—400 Dollars a Day [Melancton
 Smith, Notes, N]



R. R. LIVINGSTON. Expn.

name

Objs.

1 Knowledge interests *feelings*

2 Security corruption

Admt.

No rule determine 100—1000—

Œconomy.

Objs. governmt. of genl nature—8 men know these

Legislature to instruct.
 commercial interest
 not depend on knowing manufactures
 Wollen—to Parlt.—[— — —]

Feelings

[1] depend on *interest*—
 Use governt. to check others—from momentary passion
 2 how represented?—representative chosen daily—
 Barometer—

Representative—Shd know & persue true *ints.* not improper feelings—

2 *Security*

Rich intemperate—Unfeeling—
 Ambitious—[fond?] change—
 positions examined
 Richs. *excite envy*—Distrust—
 Examples—

Aristocratic

I had explained—Ideal—Phantoms [shaped?] [by] party—
 Given name—
Rich wise—well educated—distinguished—
 Comprizes *all*—poorest if wise virtuous.
 Members conven—himself—

Wrong how guarded.

State divided small district still men this class to be found—

Combinations

greater if 12 than 6. more Aristocrats to qualify—

Danger what.

Extend genl government.
 contrary to their interest importance at home—
 pulled down brother Aristocrats—
 24 in *Senate* not consent 6. in Congress lessen power

Calculation 24. deceptions—

Supposes

1. Means corruption
 2 honest men all absent—

Effect 3. Laws might be repealed—

Congress.

Not consist of more than 26.—8—
 Objs. same—War—peace—treaties—
 Grants money—

Sd. restrained by States—not so—States *bound* comply—
 Creditor States—maritime—
 Rule genl. [construed?] sense people—
 State Legislature—
 Convention—
 Congress—
 Economy—4 Dols. 400— [Robert R. Livingston, Notes, NHi]

R. R. LIVINGSTON. Quantity representation

no rule determine

Objs.

1. Knowledge interest—*feelings*
- 2 Security—admitted Economy—
 No rule determine—

Think nt. sufficient—New States—

~~not in Calculation—~~

No. [difference?] class—

Objs.

8 men may know—

Commercial Ints. in relation to measures arising—

British par: not woolen drapers

Gentn combine different classes

Ans: Numbers not concur that—combination—*Aristocrats*—

Feelings

Security.

declamation rich men—intemperate—Ambitious—fond change—
 unfeeling—

Ans: ~~expression~~ Riches excite envy no advancmt—but by merit

Aristocratic—influence what unknown Examine—

Rich—wise—well educated—distinguished—

Ans: comprizes *all* unwise &c. this shd. be brought 2 Sons—

Glad word expd. had influence in political examined

Admit wrong

increasing numbers increase wrong

Wrong—combinations—12

If Gent. Idea right

Ques: Danger—

1. Extend Genl. Governmt expen[c]e State

Continuity interest—

Watched Aristocratic Senate—

24 to 6—

Calculation—

24. men:—

1. Supposes means corruption
- 2 Almost incorruptable
- 3 present corrupted
4. Only make Laws repealed—

No certainty rule only one sense

people—Genl opinion

Senate—Assembly—

[- - -] [- - -]

But if besides can State objs. [- - -]

in power to check Congress defeat objs.

Convention—

Congress—

They might be sent in 4 sets—

Ⓔconomy—kept members away

powers small—

Not so purse & sword—

small districts.

Queries representation more perfect in Kings—than Albany—

Midling Classes loose by overturning governmt otherwise rich—

NB fact otherwise—

Rulers shd. represent people

I assert federal republicks can not exist

Not fact—League of States not exist— [Robert R. Livingston, Notes, NHi]

* * * * *

MELANCTON SMITH. I did not intend to make any more observations on this article. Indeed, I have heard nothing to day, which has not been suggested before, except the polite reprimand I have received for my declamation. I should not have risen again, but to examine who has proved himself the greatest declaimer. The gentleman [Robert R. Livingston] wishes me to describe what I meant, by representing the feelings of the people. If I recollect right, I said the representative ought to understand, and govern his conduct by the true interest of the people.—I believe I stated this idea precisely. When he attempts to explain my ideas, he explains them away to nothing; and instead of answering, he distorts, and then sports with them. But he may rest assured, that in the present spirit of the Convention, to irritate is not the way to conciliate. The gentleman, by the false gloss he has given to my argument, makes me an enemy to the rich: This is not true. All I said, was, that mankind were influenced, in a great degree, by interests and prejudices:—That men, in different ranks of life, were exposed to different

temptations—and that ambition was more peculiarly the passion of the rich and great. The gentleman supposes the poor have less sympathy with the sufferings of their fellow creatures; for that those who feel most distress themselves, have the least regard to the misfortunes of others:—Whether this be reasoning or declamation, let all who hear us determine. I observed that the rich were more exposed to those temptations, which rank and power hold out to view; that they were more luxurious and intemperate, because they had more fully the means of enjoyment; that they were more ambitious, because more in the hope of success. The gentleman says my principle is not true; for that a poor man will be as ambitious to be a constable, as a rich man to be a governor:—But he will not injure his country so much by the party he creates to support his ambition.

The next object of the gentleman's ridicule is my idea of an aristocracy; and he indeed has done me the honor, to rank me in the order. If then I am an aristocrat, and yet publicly caution my countrymen against the encroachments of the aristocrats, they will surely consider me as one of their most disinterested friends. My idea of aristocracy is not new:—It is embraced by many writers on government:—I would refer the gentleman for a definition of it to the honorable *John Adams*, one of our natural aristocrats. This writer will give him a description the most ample and satisfactory.¹⁰ But I by no means intended to carry my idea of it to such a ridiculous length as the gentleman would have me; nor will any of my expressions warrant the construction he imposes on them. My argument was, that in order to have a true and genuine representation, you must receive the middling class of people into your government—such as compose the body of this assembly. I observed, that a representation from the United States could not be so constituted, as to represent completely the feelings and interests of the people; but that we ought to come as near this object as possible. The gentlemen say, that the exactly proper number of representatives is so indeterminate and vague, that it is impossible for them to ascertain it with any precision. But surely, they are able to see the distinction between twenty and thirty. I acknowledged that a complete representation would make the legislature too numerous; and therefore, it is our duty to limit the powers, and form checks on the government, in proportion to the smallness of the number.

The honorable gentleman next animadvert on my apprehensions of corruption, and instances the present Congress, to prove an absurdity in my argument. But is this fair reasoning? There are many material checks to the operations of that body, which the future Congress will not have. In the first place, they are chosen annually:—What more

powerful check! They are subject to recal[1]: Nine states must agree to any important resolution, which will not be carried into execution, till it meets the approbation of the people in the state legislatures. Admitting what he says, that they have pledged their faith to support the acts of Congress; yet, if these be contrary to the essential interests of the people, they ought not to be acceded to; for they are not bound to obey any law, which tends to destroy them.

It appears to me, that had œconomy been a motive for making the representation small; it might have operated more properly in leaving out some of the offices which this constitution requires. I am sensible that a great many of the common people, who do not reflect, imagine that a numerous representation involves a great expence:—But they are not aware of the real security it gives to an œconomical management in all the departments of government.

The gentleman further declared, that as far [as] his acquaintance extended, the people thought sixty-five a number fully large enough for our State Assembly; and hence inferred, that sixty-five is to two hundred and forty thousand, as sixty five is to three millions.¹¹—This is curious reasoning.

I feel that I have troubled the committee too long. I should not indeed have risen again upon this subject, had not my ideas been grossly misrepresented. [Childs, *Debates*, 55–57]



SMITH. I rise on Acct. of the Reprimand of the Gent from New York [Robert R. Livingston] for Declamation—

I did not wish the Vicious feelings of the people to be represented—he may be assured that if this Govt. take place the Vices of the People will be sufficiently represented—

I said the Rich were more exposed to the Temptation—

I assert [it] is true—

Whether a Great Man who is Ambitious Gets all Pow[er]

He says a natural Aristocracy is new Idea—I refer him to Mr Adams who has proved that every Country has a natural Aristocracy

I now answer what a Gent said of a Book Said [to] be in high Estimation with the Antifederalists—

That book holds out all the Aristocrats in the united States to a few hundred—

I stated that the Basis of Representation should be such as to embrace the Midling Class of Men—

That as to Numbers an adequate Representation could not be had—Therefore their numbers should be increased & powers limited

[Confederation] Congress are not like this Govt.

The Delegates are chosen annually—They may be recalled every Hour—They can Serve but three years [in six]—

I hope he will assist me to form such Checks in this Govt.

He says the States Legislatures are bound by their Resolutions and the Congress have both purse & Sword—

Qu. Would the State Legislatures be bound by Resolutions or requisitions that would destroy or be inconsistent with the Liberties of the People—

If Economy was the Reason—Some Offices might be spared and the Representat increased—

If 65 is equal to that Govt. because equal to ours then 65 will represent three mill. as well as 65—24[0],000— [McKesson's Notes, NH]

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JOHN JAY. I will make a few observations on this article, Mr. Chairman, though I am sensible it may not appear very useful to travel over the field, which has been already so fully explored.

Sir, it seems to be on all sides agreed, that a strong, energetic, federal government, is necessary for the United States. It has given me pleasure to hear such declarations come from all parts of the house. If gentlemen are of this opinion, they give us to understand that such a government is the favorite object of their desire; and also that it can be instituted; That, indeed, it is both necessary and practicable; or why do they advocate it.

The gentleman last on the floor [Melancton Smith], has informed us, that according to his idea of a complete representation, the extent of our country is too great for it.—(Here he called on Mr. *Smith*, to know if he had mistaken him; who replied—My idea is not that a proper representation for a strong federal government is unattainable; but that such a representation, under the proposed constitution, is impracticable.) Sir, continued Mr. *Jay*, I now understand the gentleman in a different sense—However, what I shall say will reach equally his explanation. I take it, that no federal government is worth having, unless it can provide for the general interests of the United States. If this constitution be so formed as to answer these purposes, our object is obtained. The providing for the general interests of the Union requires certain powers in government, which the gentleman seems to be willing it should possess; that is, the important powers of war and peace. These powers are peculiarly interesting—Their operation reaches objects the most dear to the people; and every man is concerned in them. Yet for the exercise of these powers, the gentleman does not think a very large representation necessary: But, Sir, if the proposed constitution provides

for a representation adequate to the purposes I have described, why not adequate to all other purposes of a federal government? The adversaries of the plan seem to consider the general government, as possessing all the minute and local powers of the state governments. The direct inference from this, according to their principle, would be that the federal representation should be proportionably large: In this state, as the gentleman says, we have sixty-five: If the national representation is to be extended in proportion, what an unwieldy body shall we have! If the United States contain three millions of inhabitants, in this ratio, the Congress must consist of more than eight hundred. But, Sir, let us examine whether such a number is necessary or reasonable—What are the objects of our state legislatures? Innumerable things of small moment occupy their attention—matters of a private nature, which require much minute and local information. The objects of the general government are not of this nature—They comprehend the interests of the States in relation to each other, and in relation to foreign powers. Surely there are many men in this state, fully informed of the general interests of its trade, its agriculture, its manufactures: Is any thing more than this necessary? Is it requisite that our representatives in Congress should possess any particular knowledge of the local interests of the county of Suffolk, distinguished from those of Orange and Ulster? The Senate is to be composed of men, appointed by the state legislatures: They will certainly choose those who are most distinguished for their general knowledge: I presume they will also instruct them; that there will be a constant correspondence supported between the senators and the state executives, who will be able, from time to time, to afford them all that particular information, which particular circumstances may require. I am in favour of large representations: Yet, as the minds of the people are so various on this subject, I think it best to let things stand as they are. The people in Massachusetts are satisfied with two hundred:¹² The gentlemen require three hundred: Many others suppose either number unnecessarily large.—There is no point on which men's opinions vary more materially. If the matter be doubtful, and much may be rationally said on both sides, gentlemen ought not to be very strenuous on such points. The convention, who decided this question, took all these different opinions into consideration, and were directed by a kind of necessity of mutual accommodation, and by reasons of expediency: It would therefore be unfair to censure them. Were I asked if the number corresponds exactly with my own private judgement, I should answer, no.—But I think it is best, under our present circumstances, to acquiesce. Yet, Sir, if I could be convinced that danger would probably result from so small a number, I should certainly withhold my

acquiescence—But whence will this danger arise? Sir, I am not fearful of my countrymen: We have yet known very little of corruption:—We have already experienced great distresses and difficulties: We have seen perilous times; when it was the interest of Great-Britain to hold out the most seducing temptations to every man worth gaining. I mention this as a circumstance to shew, that in case of a war with any foreign power, there can be little fear of corruption; and I mention it to the honor of the American character.—At the time I allude to, how many men had you in Congress? Generally fewer than sixty-five.

Sir, all the arguments offered on the other side serve to shew, that it will be easier to corrupt under the old, than under the new government: Such arguments, therefore, do not seem to answer the gentleman's purpose. In the federal government, as it now stands, there are but thirteen votes, though there may be sixty or seventy voices.—Now, what is the object of corruption? To gain votes. In the new government there are to be ninety-one votes. Is it easier to buy many than a few? In the present Congress, you cannot declare war, make peace, or do any other important act, without the concurrence of nine states. There are rarely more than nine present. A full Congress is an extraordinary thing. Is it necessary to declare war, or pass a requisition for money to support it? A foreign Prince says, this will be against my interest—I must prevent it—How? By having recourse to corruption. If there are eleven states on the floor, it will be necessary to corrupt three: What measure shall I take? Why, it is common for each state to have no more than two members in Congress. I will take off one, and the vote of that state is lost: I will take off three, and their most important plan is defeated. Thus in the old government, it is only necessary to bribe the few: In the new government, it is necessary to corrupt the many. Where lies the greater security? The gentleman says, the election is annual, and you may recall your delegates when you please. But how are you to form your opinion of his conduct? He may excuse himself from acting, without giving any reason. Nay, on a particular emergency, he has only to go home, for which he may have a thousand plausible reasons to offer, and you have no mode of compelling his attendance.—To detect corruption is at all times difficult; but, under these circumstances, it appears almost impossible. I give out these hints to shew, that on the score of corruption, we have much the best chance under the new constitution; and that if we do not reach perfection, we certainly change for the better. But, Sir, suppose corruption should infect one branch of the government, for instance, the house of representatives; what a powerful check you have in the senate! You have a double security—You have two chances in your favor to one against

you. The two houses will naturally be in a state of rivalry: This will make them always vigilant, quick to discern a bad measure, and ready to oppose it. Thus the chance of corruption is not only lessened by an increase of the number, but vastly diminished by the necessity of concurrence. This is the peculiar excellence of a division of the legislature.

Sir, I argue from plain facts—Here is no sophistry; no construction; no false glosses, but simple inferences from the obvious operation of things. We did not come here to carry points. If the gentlemen will convince me I am wrong, I will submit. I mean to give them my ideas frankly upon the subject. If my reasoning is not good, let them shew me the folly of it. It is from this reciprocal interchange of ideas, that the truth must come out. My earnest wish is, that we may go home attended with the pleasing consciousness that we have industriously and candidly sought the truth, and have done our duty. I cannot conclude, without repeating, that though I prefer a large representation, yet considering our present situation, I see abundant reason to acquiesce in the wisdom of the general convention, and to rest satisfied, that the representation will increase in a sufficient degree, to answer the wishes of the most zealous advocates for liberty. [Childs, *Debates*, 57–60]

◆

JAY. One or two Remarks have not been mentioned—

It is agreed that a Strong energetic Fœderal Govt. is necessary—Hence we are [to] believe that it [is] believed such a Govt. is practicable—Yet a Gent [Melancton Smith] has given us to understand that a Strong energetic federal Govt. extending so far as this does is impracticable and the Country inadequate for it—

If this Govt. must have the powers of War peace and Treaties—every man is interest[ed]—If a Representation can be equal this why not answer all the other objects of the Country—

Allowing that the extent of our Country such that we cannot have a like Represent in our federal Govt. as in the State, let enquire whether it is necessary—

A thousand matters come under State Govt. which Genl Govt. has nothing to do with—

The General Govt. has to do with such matters as concern the States relative to each other and the States relative to foreign Nations—

If the Members for the Genl. Govt. are sufficiently informed as to the general Produce and Trade of the State it is all that it is or can be necessary—

They may be instructed by the State Legislatures—They may receive Information from Individuals—

On a point (vizt. No [i.e., Number of Representatives]) in which mens Minds differ so exceedingly there is reason to suppose there is Doubt—

This was done by Convey—I therefore feel it best to acquiese—If I saw apparent Danger it would be different—

The Danger is Suggested from Corruption—

I do no[t] apprehend Corruption—

We have gone thro' perilous Times—we have no reason to suppose many were corrupted—

The American Characters thereby became greatly & Gloriously distinguished—

I do not remember 65 Members at any time then

Have not principles of Œco[no]my made this & other States send not the whole Number, but only a bare Represent

I Agree that this is unwise Œconomy—

There are in Congress now but 13 Votes—in the federal Govt. 91 Votes—which is most easy to purchase—Tis votes that are to be purchased—

But you cant buy Votes without buying Men—

The federal Govt. can Scarce do one Good thing without Nine Votes—very difficult to get them—never more than 11 or 12—

To prevent this good thing it is necessary to corrupt two or three Votes—If two Members only corrupt one—if three Corrupt three

Corrupt 8 or 10 Men you prevent the most Salutory Measure—

Corrupt the like No. under this Govt. the Good thing will yet be done & every thing go on—

As the federal Govt. now exists a Man may go home and Leave his collage

The Ballance is in favour of the Change to guard agt. Corruption—

If a Bad bill pass one House the other will check it—

If it pass both Houses Objections may be made [by the president] then two thirds will be necessary—

Tho I prefer large Representat to Small ones yet I am perfectly Contented—

A Member from N York [Richard Harison] has spoken Demonstration—

If 1 to 6 be the proportion between N York & Delaware it must be so throughout—

Representation & Taxation be according to relative Numbers

Gentlemen must dispute thro' Stonewalls to get thro' this—

If these are facts the Consequences are obvious—

I have no points to carry I came here to consider Facts— [McKesson's Notes, NHi]

—◆—

JAY. the govt. must provide for defence agst. foreign force—
to War & Peace—

If they are Sufft. for 9 why not for 10—
the State governments extend to Towns & Villages
of the genl gov.

to our Interests wt each other & wt. foreign Nations—

if a State has 20 th[ousan]d— [Melancton Smith, Notes, N]

* * * * *

MELANCTON SMITH rose and said, it appeared to him probable, that it would be the interest of the state having the least number of inhabitants, to make its whole number the measure of the representation: That it would be the interest of Delaware, supposing she has forty thousand, and consequently only one vote, to make this whole number the ratio: So, if she had fifty thousand, or any number under sixty thousand. The interest also of some other of the small states would correspond with hers; and thus, the representation would be reduced in proportion to the increase of Delaware. He still insisted, that the number of representatives might be diminished.

He would make one observation more, upon the gentleman's idea of corruption. His reasoning, he said, went only to prove that the present Congress might be restrained from doing good, by the willful absence of two or three members. It was rare, he said, that the people were oppressed by a government's not doing; and little danger to liberty could flow from that source.

After some further desultory conversation on this point, the committee rose, and the Convention adjourned. [Childs, *Debates*, 60]

—◆—

SMITH. The Ratio may be altered—and the Number now existing may be decreased—Tho' I do not believe the Legislature will reduce the No. below 65. but the number ought to be fixed—

Rarely Govts. [i.e., the people] are oppressed by a Govt. not doing[,] but by their doing—

I Suppose the Checks on this Govt. an advantage—

On the other the Checks better— [McKesson's Notes, NHi]

* * * * *

RICHARD HARISON. relative to His Ideas this Morning as to Increase
The Principle being fixed the Represent cannot be diminished

I state it must encrease—

Delaware cannot encrease in proportion to the other States

The other States must encrease from Natural Cause while there apart of this

Delaware being fixed—Suppose it 33,000 N York 231000—at the next Census—suppose NY 250 or 260,000—and Delaware to remain N York must have 8 or 9 Represent—Increase must arise from Principle [McKesson's Notes, NHi]

* * * * *

THOMAS TREDWELL. Rule “*Representat & Direct Taxation agreeable to Numbers but the Smallest States must have one* [”]—

The[y] may make the ratio 100,000—or any greater Number but must allow the [Sn?] [McKesson's Notes, NHi]

1. The reference is to Article I, section 2, of the Constitution which provides for counting three-fifths of the slaves in apportioning direct taxation and representatives in the U.S. House of Representatives.

2. The reference is to the second of nine amendments that the Massachusetts Convention recommended to the Constitution. For the text of that amendment, see Convention Debates, 20 June, note 29 (above).

3. Lansing left the Constitutional Convention on 10 July 1787. The Committee of the States (a delegate from each state), mentioned by Lansing, reported on 5 July that each state should be equally represented in the Senate and should have one representative for every 40,000 inhabitants in the House of Representatives (Farrand, I, 522–23, 524, 526). Robert Yates represented New York on the Committee of the States.

4. Hamilton left the Constitutional Convention on 29 June 1787 for New York City and his next recorded speech was not until 13 August, seven days after the Committee of Detail reported the first draft of a new constitution on 6 August. (For that draft, see CDR, 260–69.) Article IV, section 3, of the report of the Committee of Detail stated that the first House of Representatives was to consist of 65 members, while section 4, indicated that the number of representatives (in future) would be regulated by the number of inhabitants, “at the rate of one for every forty thousand.” On 8 August Roger Sherman of Connecticut and James Madison moved to insert the words “not exceeding” before the words “1 for every 40,000.” This motion was passed *nemine contradicente* (Farrand, II, 221). Between 20 August and 2 September, Hamilton was again in New York City, but by 6 September he was back in the Convention, taking part in the debates for that day. On 8 September Hugh Williamson of North Carolina moved that the clause relating to the number of representatives should be reconsidered so that the number could be increased. James Madison seconded the motion, and Hamilton spoke in favor of it but the motion was defeated six states to five.

On 12 September the Committee of Style, of which Hamilton was a member, reported a second draft of the Constitution that provided that “The number of representatives shall not exceed one for every forty thousand.” (For this draft, see CDR, 284–96.) On 17 September this provision—on a motion of Nathaniel Gorham of Massachusetts supported by George Washington—was changed to “The Number of Representatives shall not exceed one for every thirty Thousand” (CDR, 307). Gorham wanted to lessen the objections to the Constitution, noting that the proportion of 1 to 40,000 “had produced so much discussion” that it “might be yet reconsidered.” Gorham wanted to “give Con-

gress a greater latitude which could not be thought unreasonable." Washington supported Gorham's motion because "The smallness of the proportion of Representatives had been considered by many members of the Convention, an insufficient security for the rights & interests of the people." Washington himself "always" believed "the smallness of the proportion" to be "among the exceptionable parts of the plan." This day, the last day of the Constitutional Convention, was the only day on which Washington offered "his sentiments on questions depending" in the Convention (Farrand, II, 643–44). For a widely reprinted newspaper article concerning Washington's speech, see CC:233–B.

5. Under the Constitution, the first Congress would have 26 senators and 65 representatives, making a total of 91 members. Under the Articles of Confederation, each of the thirteen states could send as many as seven delegates to Congress, making a total of 91 (CDR, 87).

6. See note 4 (above).

7. See note 4 (above).

8. In his notes, McKesson attributes these remarks to John Lansing, Jr., but they are really Hamilton's response to Lansing.

9. Luke 14:21–23.

10. Adams, *Defence*, I, Letter XXV, "Dr. Franklin," 116–17, and Letter XXVI, "Dr. Price," 139–40.

11. In 1787 the Constitutional Convention estimated the population of New York to be 238,000 and the population of the United States (including three-fifths of 520,000 slaves in the Southern States) at 2,573,000 (CDR, 300).

12. See note 2 (above).

Newspaper Reports of Convention Debates, 23 June 1788

*New York Daily Advertiser, 28 June 1788*¹

*Extract of a letter from a Gentleman at Poughkeepsie,
dated 21st [23rd] June, 1788.*

"On Sunday [i.e., Saturday, 21 June], about three o'clock, I arrived at Poughkeepsie, where I was friendly received by Federal men, and very particular attention paid me by the Chancellor [Robert R. Livingston]. To-day,² at the usual hour, the Convention was opened by a person³ whose name I know not. The point which claimed the attention of the day, respected the number of Representatives. The argument was brought on by Richard Harrison, who spoke with modest diffidence, commanding respect and deserved attention:—he was on the floor about twenty-five minutes. He was followed by John Lansing, who was miserably wretched and deformed in every public feature. After him arose the Chancellor, who spoke charmingly indeed. He let his fancy rove unchecked, and such bold and figurative language I before had never heard. The house was perfect silence—the eyes and mouths of every man were fixed and open—and his eloquence, like a river which had been abridged for a time, burst forth irresistibly. When he first rose his eyes bespoke passion, his countenance indicated an injury

received, and it required no great sagacity to pronounce him a speaker in quest of revenge.

“The day before my arrival, it seems that Mr. Melancton Smith had taken some very improper liberties with the Chancellor;⁴—such as pointing at his means, which were devoted to luxury; his apathy towards the poor; his extensive property; his great ambition:—subjects introduced to win the popular affections, and to create the most violent popular prejudices. In speaking of poverty and riches, the Chancellor was fancifully eloquent, and feelingly descriptive; in remarking on his property, he was delicately pleasing; but in speaking of his ambition, the greatness of his mind and the virtues of his soul shone brilliantly splendid, and even his enemies, who would feign be blind to his talents, could not but view his virtues with envy and admiration. Mr. Smith had hinted that the Chancellor wished an aristocratic form of government. Smith pointed out the abilities necessary to the form of an aristocracy, and, in a great measure, discovered his ignorance of the plan of such a government. He having committed himself in this way, the Chancellor took him by the hand; and if ever a man was ridiculously introduced into a public assembly, HE WAS. The Chancellor embraced him about twenty minutes; during which contact the prayer of the House was, that the Lord should have mercy on his feelings!—When he took his leave of him he compared him, as a politician, to an airy phantom who had only a local habitation.

“After the Chancellor had concluded, Mr. Jay arose,⁵ commanding great respect and remarkable attention; he was heard with great pleasure and satisfaction; and, no doubt, he spoke convincingly on the points raised. He has the most peculiar knack of expressing himself I ever heard. Fancy, passion, and in short every thing that marks an orator, he is a stranger to; and yet none who hear but are pleased with him, and captivated beyond expression. He appears to me not to speak as a scribe, but as a man having a right to speak, and at the same time having authority to command them to obey:—he was up about fifteen minutes.

“We understand that the paragraph debated to-day was one of the favorite Antifederal points; but if their other objections are not more formidable than the ones they have raised, we shall carry the Government unquestionably—because I am satisfied that all sides to-day were abundantly convinced of the wisdom of the paragraph debated. The Governor nor any other gentlemen have not yet spoken.”⁶

1. Reprinted: *Pennsylvania Packet*, 3 July; *Pennsylvania Journal*, 5 July. The 21 June dating of this extract of a letter is incorrect since the internal evidence indicates that the letter

was probably written on 23 June, not on 21 June. Internal evidence also reveals that the dates appearing in the text of the letter are also suspect. (See note 2, below.)

For newspaper commentaries on this extract of a letter, see "A Friend to Candor and Decency," *Daily Advertiser*, 1 July, and "Sneer," *New York Journal*, 1 July (both immediately below). The former commentary also questions the dating of this extract of a letter.

2. The summary that follows in this paragraph describes a debate that took place on Monday, 23 June (above).

3. No note taker for the debates of 23 June mentions any speaker who preceded Richard Harison, the first speaker on that day.

4. Smith criticized Chancellor Robert R. Livingston on 20 June (Convention Debates, 20 June, above).

5. After Livingston concluded, Smith responded before Jay spoke (above).

6. Governor George Clinton spoke twice on 21 June, (above). "A Friend to Candor and Decency" also questions the "Gentleman's" assertion regarding Clinton (RCS:N.Y., 1833, at note 3).

A Friend to Candor and Decency

*New York Daily Advertiser, 1 July 1788*¹

Mr. CHILDS, As you have frequently declared that your paper should be free and impartial, permit me to request that you will be pleased to give the following a place in your next paper, and you will oblige

A CUSTOMER.

To the PRINTER of the DAILY ADVERTISER.

SIR, I have ever considered it a duty incumbent on every one, who attempts to give a relation of whatever comes under his observation, to do it with candor and decency:—I am led to this remark, by reading in your paper of this day, an extract of a letter from Poughkeepsie, dated June 21. I attended the debates in Convention at the time the letter writer mentions; but before I make any comments on his epistle, would beg leave to correct one of his mistakes, altho' not of much importance, as to the general subject of his letter—It is this—He says, "to-day (meaning the 21st, which was the day before he arrived at Poughkeepsie) the Convention was opened, &c.["'] It should have been stated the 23d, for it was on that day Mr. Harrison opened the debates he alluded to. Permit me now to make some general remarks on the extract. It is readily admitted, that *Mr. Lansing* is not as great a speaker as the Chancellor [Robert R. Livingston]; but, I believe it will be acknowledged by all, or the greater part of the persons then present, that his arguments were not destitute of ingenuity and good sense; and altho' they might not have met the approbation of *some* of his auditors, yet he by no means deserved the epithets given him, of being "*miserably wretched and deformed in every public feature.*" It would be the height of injustice not to allow that the Chancellor is a gentleman of the first

abilities, and confessedly one of the greatest orators in the State, but it is a truth, that it was the opinion of many gentlemen who were Members of the Convention, as well as others, that the Chancellor, in his reply to Mr. Smith, had obviously given a variety of constructions to his (Mr. Smith's) definition of an aristocracy, which were more *fanciful* than *solid*.

The letter writer says, Mr. Smith had taken some very improper liberties with the Chancellor, and holds up an idea, that Mr. Smith's arguments tended to *personality*; having been present at the time he delivered the Speech, I must beg leave to assure the gentleman (who acknowledges it was spoken the day before his arrival) that Mr. Smith's arguments were *general* and not particularly pointed at any gentleman then in Convention, which, I believe, will appear to general satisfaction, when the debates of that day are published.

I presume the writer of the letter in question, wishes to be understood as speaking *metaphorically*, when he says, that the Chancellor took Mr. Smith by *the hand*, and that "*if ever a man was ridiculously introduced into a public assembly he was.*" And further, that "*the Chancellor embraced him about twenty minutes.*" I have my doubts how far this may be *strictly metaphorical language*, but I will assert that it is not *literally true*, for the Chancellor neither took *Mr. Smith by the hand*, nor did he *embrace him*. I would be glad to be informed on what the gentleman grounds his assertion, that during the *twenty minutes* the Chancellor *embraced Mr. Smith*, "*the prayer of the House* (which also includes the *Members of the Convention*) was, that the "*Lord should have mercy on his feelings.*"—Before he made such a *positive assertion*, he ought to have known the sentiments of *at least* the greater part if not the whole of the persons who were then present. But I do not think that any one, *except the writer*, considered Mr. Smith's situation so *truly deplorable* as to require *their prayers*.

The *debates of that day*, I expect will be published in the course of next week,² when we shall have the Chancellor's Speech, and Mr. Smith's reply; from the latter, it will appear that Mr. Smith did not feel himself so *deeply wounded*, as to be incapable of *defending himself*; and I will venture to assert, that he justified his arguments to the satisfaction of many *respectable Members of the Convention*, and although his speeches may not be so well decorated with the flowers of rhetoric, as those of the Chancellor, whose peculiar study it has been to make use of flowery language, yet it is acknowledged by very good judges, that he is as close a reasoner, and good logician, as but few in the State.

I shall pass over the *panegyric* on the Chancellor, who having paid "*very particular attention*" to the *letter writer*, I confess it would have been very ungrateful in him not to have returned his civilities.

The writer is mistaken when he says, “the Governor nor any other gentleman have yet spoken.” It will be found in the regular course of the debates, that the Governor had spoken *twice*,³ in reply, I *believe*, to some of Mr. Hamilton’s arguments, and that Mr. Tredwell made a few remarks on the subject then under consideration, *after Mr. Jay* had concluded his speech.⁴

I will only further remark, the writer pleases himself with the idea, that if arguments, urged in favor of amendments, are not more formidable than those which have already been brought forward, the Constitution will be unquestionably carried; in a short time, I believe, he will be convinced of the fallacy of his expectations, and that the objections of the gentlemen who are in opposition to the proposed Constitution, without *amendments*, have not been so destitute of *good sense* and *sound reasoning or argument*, as he imagines.

June 28.

1. This item comments on an “Extract of a letter from a Gentleman at Poughkeepsie, dated 21st June 1788,” which should have been dated 23 June. This letter extract appeared in the *Daily Advertiser*, 28 June (immediately above).

2. For the publication of the debates of 20 June, see Convention Debates, 20 June, notes 9, 11, and 18 (above).

3. George Clinton spoke twice on 21 June (above).

4. John Jay and Thomas Tredwell both spoke on 23 June (above).

Sneer

*New York Journal, 1 July 1788*¹

MR. GREENLEAF, I am neither federal nor anti-federal, as I know of, but a well wisher to America—as my judgment in politics has not been formed by a sufficient fund of political knowledge, I have never pretended to censure either one or the other party—but when I see common sense prostituted, and one of the most sinical *petit maitres*² of the coxcomical *brood* (brood admits of the masculine and feminine construction) attempting to judge of *propriety*, *good sense*, or *powers of elocution*, to answer, as he supposes, a party purpose, I cannot refrain from general remarks.—I crave, as a favor, that you would republish the following LITERARY CURIOSITY (or burlesque upon literature) published in yesterday’s *Daily Advertiser* [28 June], *italised*, and *interlarded*, ready for *roasting*, in brackets, as follows:

Extract of a letter from a gentleman at Poughkeepsie,
*dated 21 [23] June 1788.*³

“On Sunday, about three o’clock, *I* arrived at Poughkeepsie, where *I* was *friendly* received by *Federal men*, and very particular *attention* paid me by the *Chancellor*. [never was *I* taken so much *charmingly superlative*

notice of before!] To day, at the usual hour, the Convention was opened by a person *whose name I know not*. [here the chancellor's *attention* was entirely thrown away—for our narrator, it seems, *did not know his name!*] The point which claimed the attention of the day, respected the number of Representatives. The argument was brought on by Richard Harrison, who spoke with modest diffidence, commanding respect and deserved attention: he was on the floor about twenty-five minutes. [Mr. Harrison is here most *excruciatingly* honored!] He was followed by *John Lansing*, who was *miserably wretched* and *deformed* in every *public feature*. [what a fatal *thunder-bolt* for poor *John Lansing*—surely he never need make another attempt!] After him arose the *Chancellor*, who spoke *charmingly* indeed. *He let his fancy rove unchecked*, and such *bold and figurative* language *I* before had *never* heard. The house was *perfect silence*—the *eyes* and *MOUTHS* of every man were *fixed* and *OPEN*—and his *eloquence*, like a *river* which had been *abridged for a time*, *burst forth* *IRRESISTIBLY*.—When he first rose his *eyes bespoke passion*, his *countenance* indicated an *injury received*, and it required no great sagacity to pronounce him a *speaker in quest of revenge*. [Oh! what a *sweet little enchanting* body the chancellor is! the gods adore him—he has more power over our sex than the statue of *Venus de Medicis*:⁴—how astonishing it is, that the audience, with their *open mouths*, had not have eaten him up in their fit of love and transport:—his *cunning* and *sagacity* is so exquisite, that he could *smile* in his neighbour's face, and run him through the body at the same time, out kind and most *sagacious* *REVENG!*]

“The day before *my* arrival, it seems that Mr. *Melancton Smith* had taken some very *improper liberties with the Chancellor*; such as *pointing at his means*, which were *devoted to luxury*; his *apathy* towards the *poor*; his *extensive property*; his *great ambition*: subjects introduced to *win the popular affections*, and to create the most *violent popular prejudices*. [Mr. *M. Smith* was *insolent indeed*—who could have thought of his *daring* to speak to the *Chancellor!*] In speaking of *poverty* and *riches*, the Chancellor was *fancifully eloquent*, and *feelingly descriptive*; in remarking on his property, he was *delicately pleasing*; but in speaking of his ambition, *the greatness of his mind* and *the virtues of his soul* shone *BRILLIANTLY* *SPLENDID*, and even his enemies, who would feign be blind to his talents, could not but view his *VIRTUES* with *envy* and *admiration*. Mr. Smith had hinted, that the Chancellor wished an *aristocratic form of government*. Smith pointed out the *abilities* necessary to the form of an *aristocracy*, and, in a great measure, discovered his *IGNORANCE* of the *plan* of such a government. He having *committed* himself in this way, the Chancellor took him by the hand; and if ever a man was *ridiculously introduced* into a public assembly, *HE* was. The Chancellor *EMBRACED* *him about twenty minutes*; during

which *contact* the prayer of the House was, that *the Lord should have mercy on his FEELINGS!* When he took his leave of him he *compared* him, as a *politician*, to an *airy phantom* who had only a *local* habitation. [here our *hero* became quite lunatic by the force of the *bright, brilliant, resplendant, shining, vivifying, and intoxicating* VIRTUES, and ABILITIES of the chancellor, and poor Smith falls a victim to the *sublime, heroic, seraphic* discernment of his *petit maitre-ship*; oh! what wrapturous *kissing and ogling!*]

“After the Chancellor had concluded, Mr. Jay arose, commanding great respect and remarkable attention; he was heard with great pleasure and satisfaction; and, *no doubt*, he spoke convincingly on the points raised. He has the most peculiar knack of expressing himself *I* ever heard. FANCY, PASSION, and in short every thing that marks an ORATOR, *he is a stranger to*; and yet none who hear but are pleased with him, and captivated beyond expression. He appears to me not to speak as a *scribe*, but as a *man having a right to speak*, and at the same time having *authority to command them to obey*:—he was up about fifteen minutes. [his ideas of Mr. Jay discovers him to be a perfect master of *imagery, tropes, figures!* &c.]

“*We understand* that the paragraph to-day was one of the *favorite Anti-federal points!* but if their other *objections* are not more *formidable* than the ones they have raised, *WE shall carry the government unquestionably!* because *I am satisfied* that all sides to-day were *abundantly* convinced of the *wisdom* of the paragraph debated. The *Governor* nor any other GENTLEMAN have *not yet* spoken. [to conclude, *WE and US and I* are sure beyond any manner of *argumentation, or qualification, or debate, or varification, or horrible violation*—that the GOVERNOR is a GENTLEMAN, and that *WE shall carry the government.*]

Thus, sir, are the fathers of the country exposed to nonsensical animadversions.

I am your constant reader, SNEER.

June 28 [29].

1. This item comments on an “Extract of a letter from a Gentleman at Poughkeepsie, dated 21st June 1788,” which should have been dated 23 June. This letter extract appeared in the *Daily Advertiser*, 28 June (above). The square brackets in “Sneer” are in the original.

2. Literally, little masters, also a fop, dandy, coxcomb, ladies man.

3. “Sneer” added the italics, bold lettering, and the material in square brackets.

4. This statue, celebrated in the eighteenth century as a representation of ideal feminine beauty, is now in the Uffizi Gallery in Florence, Italy. Executed by a Greek artist living in ancient Rome, the statue was brought to Florence in 1680 by Cosimo (Medici) III.

The New York Convention
Tuesday
24 June 1788

Convention Debates, 24 June 1788

Convention assembled; and being resolved into a committee, the first paragraph of the third section of the first article was read; when Mr. *G. Livingston* rose, and addressed the chair.

GILBERT LIVINGSTON. He in the first place considered the importance of the senate, as a branch of the legislature, in three points of view.

First, they would possess legislative powers, co-extensive with those of the house of representatives, except with respect to originating revenue laws; which, however, they would have power to reject or amend, as in the case of other bills. Secondly, they would have an importance, even exceeding that of the representative house, as they would be composed of a smaller number, and possess more firmness and system. Thirdly, their consequence and dignity would still farther transcend those of the other branch, from their longer continuance in office. These powers, Mr. *Livingston* contended, rendered the senate a dangerous body.

He went on, in the second place, to enumerate and animadvert on the powers, with which they were clothed in their judicial capacity; and in their capacity of council to the president, and in the forming of treaties. In the last place, as if too much power could not be given to this body, they were made, he said, a council of appointment; by whom, ambassadors and other officers of state were to be appointed. These are the powers, continued he, which are vested in this small body of twenty-six men: In some cases, to be exercised by a bare quorum, which is fourteen; a majority of which number again, is eight. What are the checks provided to balance this great mass of powers? Our present Congress cannot serve longer than three years in six: They are at any time subject to recall. These and other checks were considered as necessary, at a period which I choose to honor with the name of virtuous. Sir, I venerate the spirit with which every thing was done, at the trying time in which the confederation was formed. America then, had a sufficiency of this virtue to resolve to resist, perhaps, the first nation in the universe, even unto bloodshed. What was her aim? equal liberty and safety. What ideas had she of this equal liberty? Read them in her articles of confederation. True it is, Sir, there are some powers wanted to make this glorious compact complete: But, Sir, let us be cautious,

that we do not err more on the other hand, by giving power too profusely when perhaps it will be too late to recall it. Consider, Sir, the great influence, which this body armed at all points will have. What will be the effect of this? Probably, a security of their re-election, as long as they please. Indeed, in my view, it will amount nearly to an appointment for life. What will be their situation in a federal town? Hallowed ground! Nothing so unclean as state laws to enter there; surrounded, as they will be, by an impenetrable wall of adamant¹ and gold; the wealth of the whole country flowing into it—(Here a member who did not fully understand, called out to know what WALL the gentleman meant: On which he turned and replied, “A wall of Gold—of adamant, which will flow in from all parts of the continent.” At which flowing metaphor, a great laugh in the house.) The gentleman continued, Their attention to their various business, will probably require their constant attendance.—In this Eden, will they reside, with their families, distant from the observation of the people. In such a situation, men are apt to forget their dependence—lose their sympathy, and contract selfish habits. Factions will be apt to be formed, if the body becomes permanent. The senators will associate only with men of their own class; and thus become strangers to the condition of the common people. They should not only return, and be obliged to live with the people, but return to their former rank of citizenship, both to revive their sense of dependence, and to gain a knowledge of the state of their country. This will afford opportunity to bring forward the genius and information of the states; and will be a stimulus to acquire political abilities. It will be a means of diffusing a more general knowledge of the measures and spirit of administration. These things will confirm the people’s confidence in government. When they see those who have been high in office, residing among them, as private citizens, they will feel more forcibly, that the government is of their own choice. The members of this branch, having the idea impressed on their minds, that they are soon to return to the level, whence the suffrages of the people raised them; this good effect will follow: They will consider their interests as the same with those of their constituents; and that they legislate for themselves as well as others. They will not conceive themselves made to receive, enjoy and rule; nor the people solely to earn, pay and submit.

Mr. Chairman, I have endeavored, with as much perspicuity and candor as I am master of, shortly to state my objections to this clause.—I would wish the committee to believe that they are not raised for the sake of opposition; but that I am very sincere in my sentiments in this important investigation. The senate, as they are now constituted, have

little or no check on them. Indeed, Sir, too much is put into their hands. When we come to that part of the system which points out their powers, it will be the proper time to consider this subject more particularly.

I think, Sir, we must relinquish the idea of safety under this government, if the time for service is not further limited, and the power of recall given to the state legislatures. I am strengthened in my opinion, on this point, by an observation made yesterday by an honorable member from New-York, to this effect:—"That there should be no fear of corruption of the members in the house of representatives; especially, as they are, in two years, to return to the body of the people." I therefore move, that the committee adopt the following resolution as an amendment to this clause.

"*Resolved*, That no person shall be eligible as a senator for more than six years in any term of twelve years, and that it shall be in the power of the legislatures of the several states, to recall their senators, or either of them, and to elect others in their stead, to serve for the remainder of the time for which such senator or senators so recalled were appointed." [Childs, *Debates*, 60-62]

§ 3d. paragraph 3d—No person shall be a Senator under the age of 30 years &c

G. LIVINGSTON. This Clause Important—A Senator has great Power—his Service longer than a Represent in Assembly—Have judicial Power—Try the Officers they themselves make

They are made a Council to the President in all foreign Treaties—

As if too much Power could not be given to them—They are a Council of Appointment for the united States and appoint for the Continent—Ambassadors foreign Ministers &c—

How unlike the Ideas of Liberty & Safety to be read in the Confederation—The Delegates can Serve but 3 years out of Six—can at any time be recalled—

When we consider the amazing Influence & Connections this Body will form—They will if the[y] please hold their places for Life—

They will be immured in a federal City—a Sacred Spot where no such thing as unhallowed State Laws may enter—Surrounded with a Wall of Gold—Unobserved by their Constituents—

They should be obliged to return to Citizenship and reside with the People—

This Will be a Stimulus to men to acquire knowledge & fit themselves for Office—

It will give Confidence to the People—

As they cannot be increased in Number their Power should be circumscribed—They should legislate for themselves as well as others—

As the Senate are now Constituted—they have little or [no] Check and their Powers too large—

I am Strengthened in this by a Gent. from N York—

“There is no fear of Corrupt in the Members of Assemy as they return to the People in 2 years”

This has double force as to the Senators whose duration is Six years.

Mr. Livingston proposed *Amendment*

Resolved that no person shall be Eligible as a Senator for more than Six years in any term of twelve years, and that it shall be in the Power of the Legislatures of the Several States, to recall their Senators or either of them, and to elect others in their stead to Serve the Remainder of the Time for which Such Senator or Senators so recalled was appointed [McKesson’s Notes, NHi]

◆

G. LIVINGSTON. Objects.

That Senate is less numerous than assembly.

greater powers—

Legislative—judicial—appoint officers—

Great influence & power—never get out [of] office

Difference between them & council of appointmt

Council is one year only—

Checks on congress.

3 years out of 6.—rotation

reverates spirit government last was—

not run extremes—

Desultary remarks—

Senate defended *wall adamant wall gold—flow* to this spot—

Associate only with own class—

Legislate for people not knowing feelings

Plan.

Return former situation—*rotation*

Confidence—

Am[endment]t propos’d

6 yrs. in 12—power State to recall— [Robert R. Livingston, Notes, NHi]

◆

G. LIVINGSTON. Article I. § 3 & Arte. II § 1—this Article provides and directs the Choice of senators the time they remain in Office, but

does not provide against their being reelected—What I shall say on this subject, will equally apply to Arte. II. § 1 which provides in like manner for the choice of the president—

Objectn. 1. Neither president or senators ought to be beyond the reach of the laws & government which they may pass or establish for others—or be in a situation which may possibly give them or either of them this Idea—

1 no provision but that president or senators may be reelected—

2. their elevated situation will enable them to form so strong a bond of Interest, that they will be almost Morally certain of a reelection—

[Objection] 2 In all government where traits of Republicanism are to be found—the Administrators of the government ought at certain periods to return to the common level of private citizens—

1 the amendment below hinted at will secure this—

2 under this constitution this provision will be more Necessary than in any other perhaps in the world—

3 the vast extent of territory over which this government will extend will inevitably throw a great part of it beyond the reach of the immediate Attention of those whose ears ought ever to be open, to the wants of the people—

4 the permanancy in office of president & senators (for should this consn. take place I look upon their offices nearly similar to establishment for life) will [seem?] to stamp this Idea on their Minds—that they are formed for governing, that residue of the inhabitants, made to be governed—

5 their Interest will be totally as different, as their employments—the people must earn—and pay—they—receive and enjoy—they give rule—the people submit

[Objection] 3 This was not the government we contended for in our late struggle—wherein we put all at stake—

1 We even dared to resist perhaps the first nation in the world—

2 we had confidence that our cause was the Cause of truth—therefore we boldly interceded heaven for a blessing—the ears of the almighty were open to us—& gave us victory—

3 We may all remember the cowardly reasons which were then urged,—what resist such force?—impossible!

4 I trust sir that all the spirit of 76 & 77—has not yet fled our Country—& I further trust that tho some of our neighbouring states have hastily adopted this Constitution—Yet that when they take time to reflect on the state of abject slavery they will be brought into by establishing this govt. as it now stands—they (that is the bulk of the

people) will rejoice at the stand which I trust this state will make, against the overflowing stream—

5—Was it for such a Government as this, that Many of Columbias best sons Made the sacrifice of their Lives? No, sir—it was for a Govt. of equal liberty— [Gilbert Livingston, Notes, NN]²

* * * * *

JOHN LANSING, JR. I beg the indulgence of the committee, while I offer some reasons in support of the motion just made.—In doing which, I shall confine myself to the point; and shall hear with attention, and examine with candor the objections which may be opposed to it.

The representation of the United States, by the proposed system, is vested in two bodies. On the subject of one of these, we have debated several days, and now come to the organization and powers of the other. I believe, it was undoubtedly the intention of the framers of this Constitution, to make the lower house the proper, peculiar representative of the interests of the people. The senate, of the sovereignty of the states. Some very important powers are given to the latter, to be executed without the concurrence of the representative house. Now, if it was the design of the plan to make the senate a kind of bulwark to the independence of the states; and a check to the encroachments of the general government; certainly the members of this body ought to be peculiarly under the controul, and in strict subordination to the state who delegated them. In proportion to their want of dependence, they will lose their respect for the power from whom they receive their existence; and, consequently, will disregard the great object for which they are instituted. The idea of rotation has been taken from the articles of the old confederation.³ It has thus far, in my opinion, operated with great advantage. The power of recall, too, has been an excellent check;⁴ though it has in fact never been exercised. The thing is of so delicate a nature, that few men will step forward to move a recall, unless there is some strong ground for it.

Sir, I am informed by gentlemen, who have been conversant in public affairs, and who have had seats in Congress; that there have been, at different times, violent parties in that body; an evil that a change of members has contributed, more than any other thing, to remedy. If, therefore, the power of recall should be never exercised; if it should have no other force than that of a check to the designs of the bad, and to destroy party spirit; certainly no harm, but much good, may result from adopting the amendment. If my information be true, there have been parties in Congress which would have continued to this day, if the members had not been removed. No inconvenience can follow from placing the powers of the senate on such a foundation, as to make

them feel their dependence. It is only a check calculated to make them more attentive to the objects for which they were appointed. Sir, I would ask, is there no danger that the members of the senate will sacrifice the interest of their state to their own private views? Every man in the United States ought to look with anxious concern to that body. Their number is so exceedingly small, that they may easily feel their interests distinct from those of the community. This smallness of number also renders them subject to a variety of accidents, that may be of the highest disadvantage. If one of the members is sick, or if one or both are prevented occasionally from attending, who are to take care of the interest of their state?

Sir, we have frequently observed that deputies have been appointed for certain purposes, who have not punctually attended to them, when it was necessary. Their private concerns may often require their presence at home. In what manner is this evil to be corrected? The amendment provides a remedy. It is the only thing which can give the states a controul over the senate. It will be said, there is a power in Congress to compel the attendance of absent members; but, will the members from the other states be solicitous to compel such attendance, except to answer some particular view, or promote some interest of their own? If it be the object of the senators to protect the sovereignty of their several states; and if, at any time, it be the design of the other state[s], to make encroachments on the sovereignty of any one state, will it be for their interest to compel the members from this state to attend, in order to oppose and check them? This would be strange policy indeed.

A number of other reasons might be adduced on this point; but those which have been advanced, are sufficient, I imagine, to convince the committee that such a provision is necessary and proper.—If it be not adopted, the interests of any one state may be easily sacrificed to the ambition of the others, or to the private advantage of individuals. [Childs, *Debates*, 62–63]



LANSING. in Support of the Amendmt.

Attention to the mode of appointmt. duration of Office and Limitation of the Powers of the Senate—

The Upper House devised to represent the Sovereignties of the States—

They should be more dependant on the States—

No Man would ever be recalled who was pursuing the true Interests of the State—

Rotation has been of use in Congress—

It has destroyed Factions—

No evil can arise from the Senate being dependant on the States
 If Members pursue Measures agt. the Interest of the State they should be recalled

Is there no danger that A Member or Members may pursue private Interests not Consistant with the Interest of the Constituents—

This Body was intended to prevent part of the State injuring others—
 This Body very Small—If a Member Sick or not fit or able to attend—the State not represented—They may refuse to attend—The State has no Controul over them—

Will the Members present be anxious to Compel the attendance of Members—

If a Minority only should request their attendance they cannot compel it—The Members may receive and hold offices & Emoluments *Provided*

May not a Member be induced not to pursue the public Good to obtain an Office—The Right of recal necessary to enable the States to perpetuate their Sovereignities and retain that portion of Power reserved from the Genl Government— [McKesson's Notes, NHi]

◆

LANSING. mode of appointment

duration in office

means of controul—

Senate intended as representation
 of the sovereignties of the states—

Therefore ought to be dependent.

States have never exercised

power of rotation⁵—

Rotation in Congress has been valuable—

Parties have been extinguished—

Will not have less stability—

If there no danger that they

may betray their trust—

Small number—

Sickness of a member—

Non attendance—

Will other members be solicitous

to compell attendance? [Alexander Hamilton, Notes, DLC]

ROBERT R. LIVINGSTON. The amendment appears to have in view two objects: That a rotation shall be established in the senate; and that its members shall be subject to recall by the state legislatures. It is not

contended, that six years is too long a time for the senators to remain in office: Indeed this cannot be objected to, when the purposes for which this body is instituted, are considered. They are to form treaties with foreign nations: This requires a comprehensive knowledge of foreign politics, and an extensive acquaintance with characters, whom, in this capacity, they have to negotiate with; together with such an intimate conception of our best interests, relative to foreign powers, as can only be derived from much experience in this business. What singular policy, to cut off the hand which has just qualified itself for action! But, says the gentleman [John Lansing, Jr.], as they are the representatives of the states, those states should have a controul. Will this principle hold good? The members of the lower house are the representatives of the people. Have the people any power to recall them? What would be the tendency of the power contended for? Clearly this.—The state legislatures being frequently subject to factious and irregular passions, may be unjustly disaffected, and discontented with their delegates; and a senator may be appointed one day and recalled the next. This would be a source of endless confusion. The senate are indeed designed to represent the state governments; but they are also the representatives of the United States, and are not to consult the interest of any one state alone, but that of the Union.—This could never be done, if there was a power of recall: For sometimes it happens, that small sacrifices are absolutely indispensable for the general good and safety of the confederacy: but if a senator should presume to consent to these sacrifices, he would be immediately recalled. This reasoning turns on the idea, that a state not being able to comprehend the interests of the whole, would, in all instances, adhere to her own, even to the hazard of the Union.

I should disapprove of this amendment, because it would open so wide a door for faction and intrigue, and afford such scope for the arts of an evil ambition. A man might go to the senate with an incorruptible integrity, and the strongest attachment to the interest of his state: But if he deviated, in the least degree, from the line which a prevailing party in a popular assembly had marked for him, he would be immediately recalled. Under these circumstances, how easy would it be for an ambitious, factious demagogue to misrepresent him; to distort the features of his character, and give a false colour to his conduct! How easy for such a man to impose upon the public, and influence them to recall and disgrace their faithful delegate!—The general government may find it necessary to do many things, which some states might never be willing to consent to. Suppose Congress should enter into a

war to protect the fisheries, or any of the northern interests; the southern states, loaded with their share of the burthen, which it would be necessary to impose, would condemn their representatives in senate for acquiescing in such a measure. There are a thousand things which an honest man might be obliged to do, from a conviction that it would be for the general good, which would give great dissatisfaction to his constituents.

Sir, all the arguments drawn from an imaginary prospect of corruption, have little weight with me. From what source is this corruption to be derived? One gentleman [Gilbert Livingston] tells you, that this dreadful senate is to be surrounded by a wall of adamant—of gold; and that this wall is to be a liquid one, and to flow in from all quarters. Such arguments as these seem rather to be the dreamings of a distempered fancy, than the cool rational deductions of a deliberate mind. Whence is this corruption to be derived? Are the people to corrupt the senators with their own gold? Is bribery to enter the federal city, with the amazing influx of adamant, the gentleman so pathetically contemplates? Are not Congress to publish from time to time, an account of their receipts and expenditures? Can there be any appropriation of money by the senate, without the concurrence of the assembly? And can we suppose that a majority of both houses can be corrupted? At this rate we must suppose a miracle indeed.

But to return—The people are the best judges who ought to represent them. To dictate and controul them; to tell them who they shall not elect, is to abridge their natural rights. This rotation is an absurd species of ostracism—a mode of proscribing eminent merit, and banishing from stations of trust those who have filled them with the greatest faithfulness. Besides, it takes away the strongest stimulus to public virtue—the hope of honors and rewards. The acquisition of abilities is hardly worth the trouble, unless one is to enjoy the satisfaction of employing them for the good of one's country. We all know that experience is indispensibly necessary to good government.—Shall we then drive experience into obscurity? I repeat, that this is an absolute abridgement of the people's rights.

As to the senate's rendering themselves perpetual, or establishing such a power, as to prevent their being removed, it appears to me chimerical.—Can they make interest with their legislatures, who are themselves varying every year, sufficient for such a purpose? Can we suppose two senators will be able to corrupt the whole legislature of this state? The idea, I say, is chimerical—The thing is impossible. [Childs, *Debates*, 63–65]

—◆—

R. R. LIVINGSTON. The Amendmt. has in View two things—1st. That the Senators may be dependant on the State Legislatures—2d. Rotation—

It is said the State should have Power over them—surely Not Right
Have the People Power over the State Legislatures—No—

Should the Senate be recalled by a State Legislature they would never take a Measure for the genl. State Govt.

Will it not happen that let a Senator Act from the best Intentions will not factions misrepresent him—he will be recalled Tho' the Measure was the most absolutely necessary for the Genl. Good—Exam[ple] of Navigation Laws—

A Thousand National Objects which ought to be done That may in some Instances interfere with particular States—

They will Secure the Independence of the States

I do not fear Corruption—I cannot See the Sources of it—

Are people to bribe with their own Gold—

The Senate cannot apply Money alone—The House of Representatives must join in it—

As to Rotation it was considered fully and Rejected in Convention⁶—
It is abridging the Rights of the People

Example the Reelection of our present Govr.⁷

It is an Abridgmt. of the Rights of the People—Shall two Men who have acted well and know their Duty & Business not be sufferd to Continue to Serve their Constituents when none others can Serve so well—

The Officers in their Gift not half so numerous or Important as those in the Gift of the first Magistrate of the State—

The Objections are Chimerical—I did not expect this Objection—
[McKesson's Notes, NHi]

—◆—

R. R. LIVINGSTON. Did not expect to be raised—

—The amendments 2 objects—

1st. recallable

2d. rotation—

—It cannot be contended the time too long—because they are to form Treaties—

The Repr. of States—the Rep. of S. Legis But no right to call—liable to impulse—

Rep. of States—so also of US—

they wd. also consult Int. of States—

Many members wish to possess their places—would form factions—

things will appear proper to one State not to others—Navig Law—Missip⁸

Argts. from Corruption, no weight—no possible source of Corruption—are the people to bribe them—

the Senate cant apply money alone—

Rotation rejected, because it was an abridgement of natural Liberty—

The Governor of the State instanced—

The State may have very good men and suffer greatly for want of power

Can their Officers be compared to the offices of this State—

we must submit to possibility—

The States ~~cannot recal~~ have not appd. but not reappd—

Govt. necessary only because the people sometimes [not?] right [---]—

The people cannot recal—

why did not Govr. chuse for 3 years—

permanency in Govr—

the Coroner & Sheriff not appd. by the Pe[o]ple⁹—neither is the Senate [Melancton Smith, Notes, N]



R. R. LIVINGSTON. Senators equally interested in preserving the residuary powers— [Alexander Hamilton, Notes, DLC]



R. R. LIVINGSTON. He observed that the am[en]dmen[t] had two objects first to place the senate under the absolute controul of the State Legislatures & second to establish a rotation of its members—

Under the first of these heads he said it would be necessary proper to take a survey of the powers of the Senate from whence the necessity of their permanent establishment might be inferred—independent of the constant controul of the State Legislatures. But treaties with foreign nations were to fall particularly under their managment—that the formation of these not only required a genl knowledge of the politicks of their own country & foreign nations but frequently demanded a sacrifice of the partial interest of a State to the general interests of the union.

That local politicks could not (even as the senate is now proposed to be formed) but have considerable influence on the sentiments and conduct of one who considered himself as a State agent but that this would be greatly increased when the Senator held his place during the pleasure of the State only—

That a man of a firm mind & extensive views might some times be induced to overlook the frowns of his State who might from partial views disapprove of a public measure—relying as before the expiration of his six years its ability would be sufficient notorious to justify him—But that upon the plan proposed this hope could not operate & if a man should now & then be found of sufficient elevation of mind to rise above the state of dependance in which this am[endment]t proposed to place him he would instantly be sacrificed to the partial views of the State—

He observed that the great object of government required a permanent system & that wth. that view it was designed that the members shd. not only have some stability but that the senate shd. never be totally changed—That this design would be defeated if the amendment past [i.e., passed] since the frequent change of the members by the State Legislatures would not only break in upon the established rotation but change the whole body in a shorter period that [i.e., than] was intended—That those only would remain who had their Eyes constantly fixed upon the mutations in their State Legislatures—& who would condescend to be the servile instruments of State parties—

He observed further that as the place of senator became more important it would be the source of constant intrigues in the State Legislatures—That those who wished to retain that rank would injure the characters & misrepresent the conduct of those that were in possession of it And that they would generally be succesful in these attempts from the different views lights in which every publick measure may be placed by artful men when those who are to judge of them are not possessed of all the circumstances on which they are founded—When the accuser is a member of the body that is to judge & when the absence of the accused leaves him ignorant of the charge—

As to the second point he insisted that a rotation was an unnecessary abrigemt. of the right of the State Legislature—That their situation & characters rendered them the properest judges of the conduct of those that served them that to compel them to remove one in whose fidelity & abilities they had confidence was not only a reflection upon their judgments but might at times be attended with obvious inconveniences to the State—This subject he said had been fully investigated in the Convention which formed the state government as might be remembered by some gent. then on the floor—that after the most mature deliberation they had rejected it—But experience had since justified their conduct—and that the people in reelecting their first magistrate for a series of years had testified the value they put upon the privilege of shewing their approbation of his conduct—

He treated as chimerical the arguments which were urged to shew that the Senators could by their influence on the State legislatures render their places permanent—since this not only supposed corruption in the senate but that the influence of that corruption would extend to all the State Legislatures by whom they were eligible—He observed that all the powers of the Senate were checked by the other branches of the government, and that the Gent. from Albany who had supposed them possessed of a power to declare war (Mr Lansing) had erroneously attributed to the Senate singly a right which was vested in Congress only¹⁰— [Robert R. Livingston, Notes, NHi]

R. R. LIVINGSTON. Answer.

1 Check by States

2 rotation

[1] All foreing [i.e., foreign] affairs transacted by Senate—hence *duration* necessary to system—

2 Genl. Objects frequently clash with those of States.

3 Power States reduce them to improper dependance—

4. Advantage Legislature wd. have over the people—whose representatives are for 2 years—

5. Subject govt. perpetual [recall?] of those that wanted their places—absent not able defend them selves

II. Rotation

Obs: rights of States.

Consider'd & rejected in our governmt.

Permanency by influence

This supposes corruption over Legislature [Robert R. Livingston, Notes, NHi]

JOHN LANSING, JR. The objects of this amendment are, first, to place the senators in such a situation of dependence on their several state legislatures, as will induce them to pay a constant regard to the good of their constituents:—secondly, to oblige them to return, at certain periods, to their fellow citizens; that by mingling with the people, they may recover that knowledge of their interests, and revive that sympathy with their feelings, which power and an exalted station are too apt to efface from the minds of rulers.

It has been urged, that the senators should be acquainted with the interests of the states in relation to each other, and to foreign powers; and that they should remain in office, in order to acquire extensive political information. If these were the only objects, the argument would extend to the rendering their dignity perpetual; an idea, which

probably none of the gentlemen will consent to.—But, if one third of the senators go out every two years, cannot those who succeed them acquire information from the remaining members, with respect to the relative interests of the states? It is to be presumed, that the senate will be composed of the best informed men; and that no such men will be incapable of comprehending the interests of the states either singly or collectively. If it be the design of representation that the sense and spirit of the people's interests and feelings should be carried into the government: it is obvious that this design can be accomplished in no way so perfectly, as by obliging our rulers at certain periods to relinquish their offices and rank. The people cannot be represented by men who are perpetually separated from them.

It is asked why not place the senators in the same situation as the representatives; or why not give the people a power of recall? Because, Sir, this is impracticable, and contrary to the first principles of representative government. There is no regular way of collecting the people's sentiments. But a power in the state legislatures to recall their senators, is simple and easy; and will be attended with the highest advantages.

An honorable gentleman [Alexander Hamilton], who has spoken largely on a precedent question, has acknowledged that a variety of views, and great diversity of sentiments prevailed in the federal convention; that particularly there was a difference of interest between the navigating and non-navigating states. The same opposition of interests will probably ever remain; and the members of congress will retain the same disposition to regard as their principal object, the genuine good of their respective states. If they do not; if they presume to sacrifice the fundamental advantages of their state; they betray the confidence reposed in them, and violate their duty. I wish gentlemen would uniformly adhere to the distinction between the grand design of the house of representatives and that of the senate. Does not one represent the individuals—the people of a state, and the other its collective sovereignty? This distinction is properly noticed, when it is convenient and useful to the gentlemen's argument; but when it stands in their way, it is easily passed by and disregarded.

Sir, it is true there have been no instances of the success of corruption under the old confederation: and may not this be attributed to the power of recall, which has existed from its first formation?—It has operated effectually, though silently.—It has never been exercised, because no great occasion has offered. The power has, by no means, proved a discouragement to individuals in serving their country. A seat in congress has always been considered a distinguished honor, and a

favorite object of ambition: I believe no public station has been sought with more avidity. If this power has existed for so many years, and through so many scenes of difficulty and danger without being exerted, may it not be rationally presumed, that it never will be put in execution, unless the indispensable interest of a state shall require it? I am perfectly convinced, that in many emergencies, mutual concessions are necessary and proper; and that in some instances, the smaller interests of the states should be sacrificed to great national objects. But when a delegate makes such sacrifices, as tend to political destruction, or to reduce sovereignty to subordination; his state ought to have the power of defeating his design, and averting the evil. It is observed, that the appropriation of money is not in the power of the senate alone: but sir, the exercise of certain powers, which constitutionally and necessarily involve the disposal of money, belongs to the senate: they have, therefore, a right of disposing of the property of the United States. If the senate declare war, the lower house must furnish the supplies.¹¹

It is further objected to this amendment, that it will restrain the people from choosing those, who are most deserving of their suffrages; and will thus be an abridgment of their rights. I cannot suppose this last inference naturally follows. The rights of the people will be best supported by checking, at a certain point, the current of popular favor, and preventing the establishment of an influence, which may leave to elections little more than the form of freedom. The constitution of this state says, that no man shall hold the office of sheriff or coroner, beyond a certain period.¹² Does any one imagine that the rights of the people are infringed by this provision? The gentlemen, in their reasoning on the subject of corruption, seem to set aside experience, and to consider the Americans as exempt from the common vices and frailties of human nature. It is unnecessary to particularize the numerous ways, in which public bodies are accessible to corruption. The poison always finds a channel, and never wants an object. Scruples would be impertinent—argument would be vain—checks would be useless; if we were certain that our rulers would be good men: But for the virtuous, government is not instituted: Its object is to restrain and punish vice; and all free constitutions are formed with two views, to deter the governed from crimes, and the governors from tyranny. [Childs, *Debates*, 65–67]

◆

LANSING. in reply—

The Object of the Amendt. to make the Senators dependt. on the State of Legislature and to procure rotation that bring them back to private Life—

Can any Interest as to foreign Nations Suffer—The Body perpetual
2/3ds always remain—they will be informed—

No man will be elected who has not sufficient Knowledge of the
Interests of the State—It is obviously impracticable to have the Rep-
resentatives in the State Legislatures recalled—otherwise it would be

Can local Views be destroyed will [i.e., while] we are States—

Will not *navigating* and *nonnavigating* procure local Views—

—Is not one Branch to Secure the Sovereignty of the States

The Other a Democratic Branch—

Corruption—Admit it has not appeared

This will not apply—have Members been recalled—

To be a Member of Congress was a high Honor—and pursued with
Avidity—

The Power Still Existed—It has no doubt be[en] useful Experience
in favor of it—

Admit—The Interest of individual States may necessarily be Sacra-
ficed to the Genl Interest—

The Rights which will involve the disposition of Money are solely with
the Presidt. Senate—They may declare War

That to have a Rotation is Said to be an Infringmt. of the Rights of
the People—*A Broad Assertion*

Not an Essential Right of the People—Sheriffs Coroners—

Men may be corrupted by Money Influence Office

we are Subject to the Lot of Humanity

Govtmt. instituted for the weak and the wicked

It has been said [by Robert R. Livingston] Ideas are Chimerical—if
that can be proved by Argument it will be attended to—If not it will
not weigh with the Committee— [McKesson's Notes, NHi]

LANSING.

1—to make them actual

repres:

2 to make them dependent—

3 Knowledge of circumstances

best promoted

4 Perpetual body—

5 Corruption

6 Local views ought to be

regarded—

☞ Representatives will be
guardians of state sovereignties.

Perpetuation of Faction—

Can represent be divested of lo-
cal views?

[Alexander Hamilton, Notes, DLC]

LANSING. Supports motion.

Represent the *State* should be dependant on them

Congress sometimes divided by parties.

Perpetuity.

from $\frac{1}{2}$ going out—ther[e]fore from State govmts recall if practicable—

Senate shd not be devested local interest.

Distinguish between—Senate—Reps. one represent sovereignty the

No *instance* where States *recalled*—

right declare *war*—

Sheriff & coroner not for more than 4 years— [Robert R. Livingston, Notes, NHi]

* * * * *

ROBERT R. LIVINGSTON rose, only to correct an error which had appeared in the course of the debate. It had been intimated, that the senate had a right to declare war:¹³ this was a mistake; the power could not be exercised except by the whole legislature, nor indeed had the senate a right alone to appoint a single federal officer: the president, with the advice and consent of the senate, made those appointments. He believed that the power of recall would have a tendency to bind the senators too strongly to the interests of their respective states; and for that reason, he objected to it. It will destroy, said he, that spirit of independence and free deliberation, which ought to influence the senator. Whenever the interests of a state clash with those of the union, it will oblige him to sacrifice the great objects of his appointment to local attachments. He will be subjected to all the caprices, the parties, the narrow views and illiberal politics of the state governments; and become a slave to the ambitious and factious at home.

These observations, continued the chancellor, are obvious inferences from a principle, which has been already explained, that the state legislatures will be ever more or less incapable of comprehending the interests of the union: they cannot perceive the propriety, or feel the necessity of certain great expedients in politics, which may seem, in their immediate operation, to injure the private interests of the members. [Childs, *Debates*, 67]



R. R. LIVINGSTON. The Senate and President do not declare War—but Congress—

The President alone has the Nomination to Offices—The Senate Consent—The Seats will become objects of Envy—The Legislature will

give way to the wishes of Men—The Seats will be precarious—the Governmt. mere factions—

Our Governmt all wrong if his Ideas right—Why our Govr. elected for 3 years Senators 4 years &c

There is a Sistem in Govt which cannot be had from the People—

Under Sheriffs in england to be removed in 3 years

He admits that there should be a duration and says two thirds will remain

I alledge that factions would 9 times out of 10 Annually change—

I say that the Senate are to guard the Independence—but they are also to represent and guard the general Interests of the States—
[McKesson's Notes, NH]

* * * * *

RICHARD MORRIS. I am happy, Mr. Chairman, to perceive that it is a principle on all sides conceded and adopted by this committee, that an energetic, federal government is essential to the preservation of our union; and that a constitution for these states ought to unite firmness and vigor in the national operations, with the full security of our rights and liberties. It is our business then to examine, whether the proposed constitution be agreeable to this description. I am pretty well convinced that, on this examination, the system will be found capable of accomplishing these purposes: but if the event of our deliberations should be different, I hope we shall not adopt any amendments, which will defeat their own design. Let us be cautious, that in our eager pursuit of the great object, we do not run into those errors, which disfigured the old confederation. We may render useless all our provisions for security, by urging and straining them too far: we may apply checks, which may have a direct tendency to impede the most salutary operations of the government; and ultimately deprive it of the strength and vigor necessary to preserve our national freedom. I fear the proposed amendment, were it adopted, would have such an effect. My reason has been anticipated by my honorable colleague [Robert R. Livingston]. It is, that it would create a slavish subjection to the contracted views and prevailing factions of the state governments; or in its exercise would deprive the national council of its members, in many difficult emergencies: and thus throw the union into disorder, take away the means of defence, and expose it, an easy prey to its enemies.

The gentlemen in all their zeal for liberty, do not seem to see the danger to be apprehended from foreign power: they consider that all the danger is derived from a fancied tyrannical propensity in their rulers; and against this they are content to provide. I am sorry their views

are so confined and partial. An extensive and liberal survey of the subject should teach us, that vigor in the government is as necessary to the protection of freedom, as the warmest attachment to liberty in the governors. Sir, if the proposed amendment had been originally incorporated in the constitution, I should consider it as a capital objection: I believe it would have ultimately defeated the very design of our union. [Childs, *Debates*, 67–68]



MORRIS. Happy to find that it [is] conceded that a Strong [federal government is essential to the preservation of our Union]

We are to see if the rights of the People preserved—we ought not to render the Constitution useless—

The Amendment would

If we create a Power which will destroy the Govt. we do not make the Govt. energetic nor attend to the Rights—

Suppose an Attack on the Eastern States

The Southern States say the Evil is at a Distance¹⁴—how shall we

If it was in the Constitution I should think it an Evil and that it would destroy the Govt. [McKesson’s Notes, NHi]



MORRIS. the effect will be to destroy it—create a power exterior to the Govt—

suppose them upon some great object—the [Sen.?] recalled—The eastern States attacked—the Southern States recall their Senators— [Melancton Smith, Notes, N]

GILBERT LIVINGSTON asked if any reasonable man could suppose, that the United States of America would suffer a sister state to be invaded, and refuse to assist in repelling the enemy. If so, we might conclude, that they would be so dishonorable, as to recall their senators in such a conjuncture. The gentleman’s reasoning would apply, when such a flagrant violation of the principles of the union became probable, and not till then. [Childs, *Debates*, 68]



G. LIVINGSTON. When we can suppose America so blind as not to preserve a Sister State and preserve herself from that [McKesson’s Notes, NHi]

RICHARD HARISON. I have but a few observations to make, in addition to those which have already been offered. It seems, sir, to be granted by all parties, not only that a vigorous government is necessary, but that

the national legislature ought to be divided into two branches, and that these branches should be organized in a different mode, and possess different powers. The object of this difference of formation is a very important one. The design of the house of representatives is to represent the people of the United States, and to protect their liberties. The design of the senate is to give stability and energy to the government. A single democratic assembly would be subject to changes and inconstancy incompatible with a regular administration. But the gentlemen carry their amendment farther than the power of recall: they say that a rotation in office ought to be established; that the senators may return to the private walks of life, in order to recover their sense of dependence. I cannot agree with them in this. If the senator is conscious that his re-election depends only on the will of the people, and is not fettered by any law, he will feel an ambition to deserve well of the public. On the contrary, if he knows that no meritorious exertions of his own can procure a re-appointment, he will become more unambitious and regardless of the public opinion. The love of power, in republican governments, is ever attended by a proportionable sense of dependence. As the constitution now stands, I see no possible danger of the senators losing their attachment to the states: But the amendment proposed would tend to weaken this attachment, by taking away the principal incentives to public virtue. We may suppose two of the most enlightened and eminent men in the state, on whom the confidence of the legislature and the love of the people are united, engaged, at the expiration of their office, in the most important negotiations, in which their presence and agency may be indispensable. In this emergency, shall we incapacitate them? Shall we prohibit the legislature from re-appointing them? It might endanger our country and involve us in inextricable difficulties. Under these apprehensions, and with a full conviction of the imprudence of depriving the community of the services of its most valuable citizens, I feel very strongly the impropriety of this amendment and hope it may not be adopted. [Childs, *Debates*, 68–69]

HARISON. It is granted that Govt. should be strong and that their Should be two Branches—

1st. It should represent the national Sovereignty

2d A part of the National Legislature

We Strengthen this Branch for National Purposes rather than to be dependant on the State Govts.

If Local Views will govern—It is necessary by a Security in Office to give him a counterpoise agt. Local Views that he may attend to the National Interest—

He will Still be dependt. as he must return at the End of Office—
Nothing can Secure him but Rectitude which in Time will be known
in the State Legislature—

But the Gent Amendmt. also requires Rotation that he may return
to private Life—

This is not necessary—

He will remember that he will not be reelected unless he has pro-
moted the Genl. Interest of his Country—

Suppose the two best men have been elected and Served their Coun-
try well—Suppose them negotiating Treaties—

Shall We compel the Legislature to change them—

Corruption a few Words—

Corruption cannot be exercised with the public Money

The Article of the Constitution an effectual Check agt. Corruption
by Office—

The Gent of the Committee will suppose the Amendmt not only
useless but Improper— [McKesson's Notes, NHi]

◆

HARISON. Two branches allowed—

Local Interests ought to be counteracted—therefore ought to be in-
depend of his State—

We are strengthg weakng the strong people principle—

2 Most eminent Men of the State—that have no equals—engaged in
making a Treaty—shall we deprive—

Corruption—cannot be by public money—because the Repres. are
to give it—Cannot hold offices while Senators— [Melancton Smith,
Notes, N]

* * * * *

ROBERT R. LIVINGSTON rose to suggest an idea which had not been
before expressed. It is necessary, said he, that every government should
have the power of continuing itself. It ought never to be destroyed, or
fundamentally changed, but by the people who gave it birth: And yet
the gentleman's amendment would enable the state legislatures to an-
nihilate the government by recalling the senators. [Childs, *Debates*, 69]

◆

R. R. LIVINGSTON. The Powers of the Senate alone are very Small—

This Amendmt. will put it in the Power of the Legislative Bodies of
the States to destroy the Governmt—and that without the Consent of
the people—

The Legislature will always speak the Sense of the People— [Mc-
Kesson's Notes, NHi]

◆

R. R. LIVINGSTON. They have no power because they cant act alone—

Every govt. should have the power of continuing themselves—
distinction between the Govt. of the States— [Melancton Smith, Notes, N]

* * * * *

MELANCTON SMITH in answer to the chancellor, observed that if the gentleman's position was true, that every government should have the power of continuing itself, it followed that the senate should be capable of perpetuating itself, and assuming a compleat independent authority. But according to his argument, the state legislatures had already a power to destroy the government: for at the expiration of six years, they had only to neglect to re-appoint, and the government would fall of course. [Childs, *Debates*, 69]

—◆—
SMITH. The Gent. [Robert R. Livingston] says every Govt. should have the Power to continue itself—

Then the Senate should perpetuate itself—

As it now Stands let the Legislatures neglect or refuse to elect it will destroy the Govt— [McKesson's Notes, NHi]

—◆—
SMITH. Senate ought to have power
to perpetuate themselves— [Alexander Hamilton, Notes, DLC]

—◆—
SMITH. State goverments may refuse to elect—& destroy Governmt.
[Robert R. Livingston, Notes, NHi]

* * * * *

JOHN LANSING, JR. I trust the committee will indulge me with a few additional observations. It has been an argument urged with considerable zeal, that if the state legislatures possessed the power of recall, its exercise would be governed by faction or caprice, and be subject to the impulses of the moment. Sir, it has been sufficiently proved to the committee, that although there have been factions in the state governments, though they have been subject, in some instances, to inconstant humours and a disaffected spirit, they have never yet exercised the power of recall which was vested in them. As far, therefore, as experience is satisfactory, we may safely conclude that none of these factious humours will operate to produce the evils which the gentlemen apprehend. If, however, the legislature should be so deluded as to recall an honest and faithful senator, certainly every opportunity would be allowed him of defending himself, of explaining the motives which influenced him, and of convincing them of the injustice of the imputation.

If the state has been imposed upon by ambitious and designing men, the intrigue on full examination, will be detected and exposed. If misinformation or false views have produced the measure, the error may easily be corrected.

It has been observed, that the power of recall might be exercised to the destruction of the Union. Gentlemen [Richard Morris] have expressed their apprehensions, that if one part of the continent was invaded, the states most distant from the danger, might refuse their aid, and consequently the whole fall a sacrifice. Is this reasoning upon probability? Is not every state fully convinced that her interest and safety are involved in those of the Union? It is impossible, Sir, for such an event to happen, till, in the decline of the human species, the social principles, on which our union is founded, are utterly lost and forgotten. It is by no means necessary that the state which exercises the power contended for, should continue unrepresented—I have no objections that a clause should be added to the amendment, obliging the state, in case of a recall, to chuse immediately other senators to fill the vacancy. Such a provision would probably in some measure, remove the apprehensions which are entertained.

In the gentlemen's reasoning on the subject, there appears an inconsistency, which I cannot but notice. It is observed, that one design of the senate, as it is now organized, is to form a counterpoize to the local prejudices which are incompatible with a liberal view of national objects, and which commonly accompany the representatives of a state. On the other hand, it is said, the amendment will have a tendency to lessen the attachment of the senators to their constituents, and make them regardless of the public sentiments, by removing the motives to virtue, that is, a continuation of honors and employments. This reasoning seems to be calculated upon the idea of dependence on the state governments, and a close connection between the interest of the several states, and that of their representatives—But this dependence, say the gentlemen, is the very source of all those local prejudices which are so unfavorable to good government, and which the design of the senate was to correct and remove.—I am, however Sir, by no means in sentiment with the honorable gentlemen, that the rotation proposed would diminish the senator's ambition to merit the good will of the people. Though, at the expiration of his office, he would be incapacitated for a term of six years; yet to the end of this term he would look forward with as earnest ambition, as if he were constantly the object of the public suffrages. Nay, while in office, he would have an additional motive to act well: for, conscious of the people's inconstant disposition, he would be obliged, in order to secure a future election, to fix in their

minds the most lasting impression of his services. It is entirely probable that local interests, opinions and prejudices will ever prevail in the general government, in a greater or less degree. It was upon this presumption that the small states were induced to join themselves to the union. [Childs, *Debates*, 69–70]

—◆—

LANSING. The Honorable Gent. (Mr Livingston) alledged that the members be liable to annual Election is not annalagous—

Taking up the Idea of a Recall and not rotation

Is a Man who is in office until a Recal—

In Congress—if not recalled one year—in the other Instance Six years—

If the Power has existed—yet has not been exercised or Injured the Interests of General Governmt—

If a Member is recalled the Reasons will be investigated—it will be his duty to explain Measures and Vindicate his Conduct—

In the Instance of Sheriffs & Coroners I only meant to Shew that the Convention did consider it such an Essential Right of the People as to be uniformly adhered to—

The Gent. says this does not deprive the People it only confers the Rights to the Presidt. & Council—

In one Instance Represent the Democracy

In the other—the Interests of the States—

If necessary to have different Interests in the two Houses

A Gent from NY. [(]Ch. Just. [Richard Morris]) says

Two reasons why this cannot happen—

1 When ever a State recals it must send a Substitute

2d. What would Induce any State to see another ruined when that would involve its own ruin—

Another Gen (R Livingston)

Says duration of Office is to be a Counterpoise to local prejudices— Yet says his wish to be reelected will retain him to his State Interest—

Then it will have the Same Effect as the Amendment—

In the operation of this Govt. State passions [McKesson's Notes, NHi]

—◆—

LANSING. Not convinced.

[Govn On the presentation?] State & people—

If gov. opposed State & Genl.

Local reasons will operate—proposition give them a greater operation—

States not opposed to genl government but Genl government organized to protect a particular govmt. [Robert R. Livingston, Notes, NHi]

—◆—

LANSING. Contrast views of the states
with the views of the people
State passions &c. will operate. [Alexander Hamilton, Notes, DLC]

* * * * *

ALEXANDER HAMILTON. I am persuaded, Mr. Chairman, that I in my turn, shall be indulged, in addressing the committee—We all, with equal sincerity, profess to be anxious for the establishment of a republican government, on a safe and solid basis—It is the object of the wishes of every honest man in the United States, and I presume I shall not be disbelieved, when I declare, that it is an object of all others the nearest and most dear to my own heart. The means of accomplishing this great purpose become the most important study, which can interest mankind. It is our duty to examine all those means with peculiar attention, and to chuse the best and most effectual. It is our duty to draw from nature, from reason, from examples, the justest principles of policy, and to pursue and apply them in the formation of our government. We should contemplate and compare the systems, which, in this examination, come under our view, distinguish, with a careful eye, the defects and excellencies of each, and discarding the former, incorporate the latter, as far as circumstances will admit, into our constitution. If we pursue a different course and neglect this duty, we shall probably disappoint the expectations of our country and of the world.

In the commencement of a revolution, which received its birth from the usurpations of tyranny, nothing was more natural, than that the public mind should be influenced by an extreme spirit of jealousy. To resist these encroachments, and to nourish this spirit, was the great object of all our public and private institutions. The zeal for liberty became predominant and excessive. In forming our confederation, this passion alone seemed to actuate us, and we appear to have had no other view than to secure ourselves from despotism. The object certainly was a valuable one, and deserved our utmost attention: But, Sir, there is another object, equally important, and which our enthusiasm rendered us little capable of regarding—I mean a principle of strength and stability in the organization of our government, and vigor in its operations. This purpose could never be accomplished but by the establishment of some select body, formed peculiarly upon this principle. There are few positions more demonstrable than that there should be in every republic, some permanent body to correct the prejudices, check the intemperate passions, and regulate the fluctuations of a popular assembly. It is evident that a body instituted for these purposes must be so formed as to exclude as much as possible from its own character, those infirmities, and that mutability which it is designed to

remedy. It is therefore necessary that it should be small, that it should hold its authority during a considerable period, and that it should have such an independence in the exercise of its powers, as will divest it as much as possible of local prejudices. It should be so formed as to be the center of political knowledge, to pursue always a steady line of conduct, and to reduce every irregular propensity to system. Without this establishment, we may make experiments without end, but shall never have an efficient government.

It is an unquestionable truth, that the body of the people in every country desire sincerely its prosperity: But it is equally unquestionable, that they do not possess the discernment and stability necessary for systematic government. To deny that they are frequently led into the grossest errors by misinformation and passion, would be a flattery which their own good sense must despise. That branch of administration especially, which involves our political relation with foreign states, a community will ever be incompetent to. These truths are not often held up in public assemblies—but they cannot be unknown to any who hear me. From these principles it follows that there ought to be two distinct bodies in our government—one which shall be immediately constituted by and peculiarly represent the people, and possess all the popular features; another formed upon the principles, and for the purposes before explained. Such considerations as these induced the convention who formed your state constitution, to institute a senate upon the present plan. The history of ancient and modern republics had taught them, that many of the evils which these republics suffered arose from the want of a certain balance and mutual controul indispensable to a wise administration—They were convinced that popular assemblies are frequently misguided by ignorance, by sudden impulses and the intrigues of ambitious men; and that some firm barrier against these operations was necessary: They, therefore, instituted your senate, and the benefits we have experienced, have fully justified their conceptions.¹⁵

Now Sir, what is the tendency of the proposed amendment? To take away the stability of government by depriving the senate of its permanency: To make this body subject to the same weakness and prejudices, which are incident to popular assemblies, and which it was instituted to correct; and by thus assimilating the complexion of the two branches, destroy the balance between them. The amendment will render the senator a slave to all the capricious humors among the people. It will probably be here suggested, that the legislatures—not the people—are to have the power of recall. Without attempting to prove that the legislatures must be in a great degree the image of the multitude,

in respect to federal affairs, and that the same prejudices and factions will prevail; I insist, that in whatever body the power of recall is vested, the senator will perpetually feel himself in such a state of vassalage and dependence, that he never can possess that firmness which is necessary to the discharge of his great duty to the union.

Gentlemen, in their reasoning, have placed the interests of the several states, and those of the United States in contrast—This is not a fair view of the subject—They must necessarily be involved in each other. What we apprehend is, that some sinister prejudice, or some prevailing passion, may assume the form of a genuine interest. The influence of these is as powerful as the most permanent conviction of the public good; and against this influence we ought to provide. The local interests of a state ought in every case to give way to the interests of the Union: For when a sacrifice of one or the other is necessary, the former becomes only an apparent, partial interest, and should yield, on the principle that the small good ought never to oppose the great one. When you assemble from your several counties in the legislature, were every member to be guided only by the apparent interest of his county, government would be impracticable. There must be a perpetual accommodation and sacrifice of local advantage to general expediency—But the spirit of a mere popular assembly would rarely be actuated by this important principle. It is therefore absolutely necessary that the senate should be so formed, as to be unbiassed by false conceptions of the real interests, or undue attachment to the apparent good of their several states.

Gentlemen indulge too many unreasonable apprehensions of danger to the state governments—They seem to suppose, that the moment you put men into the national council, they become corrupt and tyrannical, and lose all their affection for their fellow-citizens. But can we imagine that the senators will ever be so insensible of their own advantage, as to sacrifice the genuine interest of their constituents? The state governments are essentially necessary to the form and spirit of the general system. As long, therefore, as Congress have a full conviction of this necessity, they must, even upon principles purely national, have as firm an attachment to the one as to the other. This conviction can never leave them, unless they become madmen. While the constitution continues to be read, and its principles known, the states must, by every rational man, be considered as essential component parts of the union; and therefore the idea of sacrificing the former to the latter is totally inadmissible.

The objectors do not advert to the natural strength and resources of the state governments, which will ever give them an important superiority over the general government. If we compare the nature of their

different powers, or the means of popular influence which each possesses, we shall find the advantage entirely on the side of the states. This consideration, important as it is, seems to have been little attended to. The aggregate number of representatives throughout the states may be two thousand. Their personal influence will therefore be proportionably more extensive than that of one or two hundred men in Congress. The state establishments of civil and military officers of every description, infinitely surpassing in number any possible correspondent establishments in the general government, will create such an extent and complication of attachments, as will ever secure the predilection and support of the people. Whenever, therefore, Congress shall meditate any infringement of the state constitutions, the great body of the people will naturally take part with their domestic representatives. Can the general government withstand such a united opposition? Will the people suffer themselves to be stripped of their privileges? Will they suffer their legislatures to be reduced to a shadow and a name? The idea is shocking to common sense.

From the circumstances already explained, and many others which might be mentioned, results a complicated, irresistible check, which must ever support the existence and importance of the state governments. The danger, if any exists, flows from an opposite source.—The probable evil is, that the general government will be too dependent on the state legislatures, too much governed by their prejudices, and too obsequious to their humours; that the states, with every power in their hands, will make encroachments on the national authority, till the union is weakened and dissolved.

Every member must have been struck with an observation of a gentleman from Albany [John Lansing, Jr.]. Do what you will, says he, local prejudices and opinions will go into the government. What! shall we then form a constitution to cherish and strengthen these prejudices? Shall we confirm the distemper instead of remedying it? It is undeniable that there must be a controul somewhere. Either the general interest is to controul the particular interests, or the contrary. If the former, then certainly the government ought to be so framed, as to render the power of controul efficient to all intents and purposes; if the latter, a striking absurdity follows: The controuling powers must be as numerous as the varying interests, and the operations of government must therefore cease: For the moment you accommodate these differing interests, which is the only way to set the government in motion, you establish a general controuling power. Thus, whatever constitutional provisions are made to the contrary, every government will be at last driven to the necessity of subjecting the partial to the universal interest.

The gentlemen ought always, in their reasoning, to distinguish between the real, genuine good of a state, and the opinions and prejudices which may prevail respecting it: The latter may be opposed to the general good, and consequently ought to be sacrificed; the former is so involved in it, that it never can be sacrificed. Sir, the main design of the convention, in forming the senate, was to prevent fluctuations and cabals: With this view, they made that body small, and to exist for a considerable period. Have they executed this design too far? The senators are to serve six years. This is only two years longer than the senators of this state hold their places. One third of the members are to go out every two years; and in six, the whole body may be changed. Prior to the revolution, the representatives in the several colonies were elected for different periods; for three years, for seven years, &c. Were those bodies ever considered as incapable of representing the people, or as too independent of them? There is one circumstance which will have a tendency to increase the dependence of the senators on the states, in proportion to the duration of their appointments. As the state legislatures are in continual fluctuation, the senator will have more attachments to form, and consequently a greater difficulty of maintaining his place, than one of shorter duration. He will therefore be more cautious and industrious to suit his conduct to the wishes of his constituents.

Sir, when you take a view of all the circumstances which have been recited, you will certainly see, that the senators will constantly look up to the state governments, with an eye of dependence and affection. If they are ambitious to continue in office, they will make every prudent arrangement for this purpose, and, whatever may be their private sentiments of politics, they will be convinced, that the surest means of obtaining a re-election will be a uniform attachment to the interests of their several states.

The gentlemen to support their amendment have observed that the power of recall, under the old government, has never been exercised. There is no reasoning from this. The experience of a few years, under peculiar circumstances, can afford no probable security that it never will be carried into execution, with unhappy effects. A seat in congress has been less an object of ambition; and the arts of intrigue, consequently, have been less practised. Indeed, it has been difficult to find men, who were willing to suffer the mortifications, to which so feeble a government and so dependent a station exposed them.

Sir, if you consider but a moment the purposes, for which the senate was instituted, and the nature of the business which they are to transact, you will see the necessity of giving them duration. They, together with

the President, are to manage all our concerns with foreign nations: They must understand all their interests, and their political systems. This knowledge is not soon acquired—But a very small part is gained in the closet. Is it desirable then that new and unqualified members should be continually thrown into that body? When public bodies are engaged in the exercise of general powers, you cannot judge of the propriety of their conduct, but from the result of their systems. They may be forming plans, which require time and diligence to bring to maturity. It is necessary, therefore, that they should have a considerable and fixed duration, that they may make their calculations accordingly. If they are to be perpetually fluctuating, they can never have that responsibility which is so important in republican governments. In bodies subject to frequent changes, great political plans must be conducted by members in succession: A single assembly can have but a partial agency in them, and consequently cannot properly be answerable for the final event. Considering the senate therefore with a view to responsibility, duration is a very interesting and essential quality. There is another view, in which duration in the senate appears necessary. A government, changeable in its policy, must soon lose its sense of national character, and forfeit the respect of foreigners—Senators will not be solicitous for the reputation of public measures, in which they have had but a temporary concern, and will feel lightly the burthen of public disapprobation, in proportion to the number of those who partake of the censure. Our political rivals will ever consider our mutable counsels as evidence of deficient wisdom, and will be little apprehensive of our arriving at any exalted station in the scale of power. Such are the internal and external disadvantages which would result from the principle contended for. Were it admitted, I am firmly persuaded, Sir, that prejudices would govern the public deliberations, and passions rage in the counsels of the union. If it were necessary, I could illustrate my subject by historical facts: I could travel through an extensive field of detail, and demonstrate that wherever the fatal principle of—the head suffering the controul of the members, has operated, it has proved a fruitful source of commotions and disorder.

This, Sir, is the first fair opportunity that has been offered, of deliberately correcting the errors in government. Instability has been a prominent and very defective feature in most republican systems.—It is the first to be seen, and the last to be lamented by a philosophical enquirer. It has operated most banefully in our infant republics. It is necessary that we apply an immediate remedy, and eradicate the poisonous principle from our government. If this be not done, Sir, we shall feel, and posterity will be convulsed by a painful malady. [Childs, *Debates*, 70–75]

—◆—

HAMILTON. We all Aim at the best Govt.
 We should mix the Happy Ingredients, and not go into Extremes or we shall build Utopia upon Utopia¹⁶—

It was a time of Jealousy—We seemed to have attended only to tie the Representat

Another Prin[ciple]

To have in our Govt. some Stable Body that will pursue a System—
 Guard agt. Innovations and know and direct public Affairs—

The People of every Country desire the Interests of the Country—
 But in many Cases *The People want* [i.e., lack] *Necessary Information respecting public measures*—
 peculiarly relating to foreign affairs

2d. The People are mislead by Men of Influence who have partial Views

Therefore 2 objects

To have one Body dependt. on the People who will have a quick Sensibility of the Ideas of the People—

The Representatives for 2 years

The other object

To have some permanent Body who will pursue the public Interest notwithstanding some popular dissatisfactions the Arts of Demagogues and designing Men—Hence the Senate—

Why have we a Senate with a duration of 4 years & one 3d. to go Out every year—

We should look at Truth with a degree of firmness, and without prejudice

This is a Senate.

What is the Amendmt.

That the Senators shall depend on the will of the State Legislatures—
 but not be continued beyond Six years—

If so the Senators will not have the Stability necessary Nor the firmness to abide by National Interests—

A Measure may appear to affect a State Interest yet be for its Benefit—Nay It may in Some Instances be agt. a particular State Interest—
 yet ought to be done—

Without a power of this House your Building will be a House of Sand¹⁷

Will the People agree their States Govt should be given up—if not will not the persons elected by the People preserve them—

The State Govts. will have greater Influence than the National Govt.
 2000 Repres[ent]atives in State Govts.
 100 Represent. in the National Govt.

State Governmts. appoint many Offices

Genl Govt. but few.

Ambassadors and foreign ministers no influence

Some Judges—not Many

Officers of the Customs—not many—

The State Governmts will provide Laws respecting agriculture and such things as more ~~effectually~~ or sensibly affect Individuals

When Men know that Men with Arms in their Hands under the Influence of the State Govts.

The State Govts. will have a vast Influence on the National Governmt.

The Members will have their Connections in their own States which will influence—

The Observation of the Hon member from Alb. [(]Mr Lansing)

The Argumt. then should be [to] oppose the principal of Local Interests as far as possible—

Has the form of Governmt. carried this Power too far—No

One third may be changed in two years—the whole in Six years—

Every Election here changes one half¹⁸

Will they not be sufficiently dependt.

Did not the former Represent before the War represent the People and were sufficiently

The Representatives will watch their Representatives in the National Senate—This will make them perhaps too dependent—yet that duration of Office will give firmness to a certain Extent—

The Persons who would be sent to Senate will endeavour to please

Six years soon elapses—As the Time shortens the Influence will be greater—One third thrown into the Body will always keep the Body from Corrupt Measures—

You will find a Number always ready to Supplant the Senators—

The Objects to which the Senate is destined requires Permancy—

They are with the President to make Treaties, manage Commerce and direct the foreign Interests—

This Knowledge gained by Experience

Permancy also necessary to its Responsibility—

In its objects will be a System of Links—

They must have a lasting Tenure to be responsible for the Effect of their Measures—

They should have a National Character, and have a Sensibility of it—As the public Eye will be turned on them—

This not necessary for a Body who transact temporary measures from day to day—

With the Amendment they will be dependt. to a degree that will disqualify

The Amend will thro[w] State Interests and factions into your National Govt—will create a Mutability of measures which will prevent the Country from enjoying advantages—

Without blending Liberty and Stability we cannot establish a good republican Governmt.

Let us rescue Republican Govt. from mutability inconstancy &c charged on it— [McKesson's Notes, NHi]

HAMILTON. The mind at the Revolution run into extremes—the extreme was, we consulted nothing but to tie the Representative to the people—

A Stable body—

wt. oppurtunty. to know
guard agst. instability

The people of every country desire its prosperity but want [i.e., lack] information

frequently misled by artful Men—

conciliate two objects. one Body who shall be closely united to the people, this in the Representative

The other a Body of firmness to pursue the true Interest of the people against the fluctg. [- - -] of the people—

This the object, tenor of off[i]c[e] app. &c—

the Senate in this [state] 4 Years [- - -] reeligible—

The proposal is, that they are to hold their places during the pleasure of the Legis—

If the Senator[s] are dependent [upon?] the State Legisl—they cannot have firmness—

The State Legisls. may be misinformed when the Int. of the S[tate] Consd.

It may be neces to yield a part. State Int—

too great anxiety for State Ints—

It is suppd. when we app. men to genl govt. they will be vultures preying upon the State govermts

they will be attached to the States—

The States will have gr. power

1st. The diff. States have near 2000 [representatives]—

2. More Offices in the gift of the State—The general govt. may appoint revenue officers—but will only appt. custom officers—Judges—Ambs.—&c supposing they appoint all—bear no comparisons—

Gov[ernor] Senate Assembly Judges Justices Sheriff

3. It is natural for the people will look to those who regulate agriculture &c—

Whenever they geny. meditate any encroachmts—the whole body of the people to resist—The State government will have great inf[luence]—by the S. Legislature [Melancton Smith, Notes, N]

HAMILTON. by choosing Senate—and influencing the choice of Representative—the remark of the Alby. gen. [John Lansing, Jr.] that the State should be restrd—certain perm. Interests—but other local Int[eres]ts—

6 Years—little more than this State one third may be changed—in 6 Ys. all may be changed—

Will not 6 Years be responsible not—In former go[vernmen]ts we elected for 7 Years¹⁹ were responsible enough

The senate will be under the controul of the State governt. because they will watch them—

Responsible & firmness consist—

The State have not exercised the power

we cannot argue that from the past to the future—the part[icu]l[ar] sit[uation] of the present Conf. not appl—

The objects to which they extend proves the propriety of duration—

A knowledge of the powers of Europe their commerce—politics—[face?] & Interest—the com[me]r[cial] In[terest] of your own country, its produce, finances [- - -]. this requires time—

Its necessary to make them responb.

knowledge—

firmness—

Responsibility—

dependant to such degree as to render them useless—violently to promote the S. Go[vernmen]ts.—

Historical facts proves its imp—

Our own States prove it, a Lawyer at the end of every session has to learn a new System— [Melancton Smith, Notes, N]

HAMILTON. Observations on Necessity of—
stable principle—

Necessary of considerable duration
for knowlege

responsibil[i]ty

sense of national character

safety against executive.

Influence of the states [Alexander Hamilton, Notes, DLC]²⁰

* * * * *

JOHN LANSING, JR., said he had very closely attended to the arguments which had been advanced on this subject; but, however strongly and ingeniously they had been urged, he confessed, they had not had a tendency to change his sentiments. The principles which the gentleman [Alexander Hamilton] had laid down, with respect to a division of the legislature, and the necessity of a balance, he admitted. If he had been inclined to dispute the expediency of two distinct branches in the government, he should not now be taking up the time of the committee, in a contest respecting the form and powers of these branches. He granted therefore that there ought to be two houses, to afford a mutual check. The gentleman seemed disposed to render the federal government entirely independent, and to prevent the possibility of its ever being influenced by the interests of the several states; and yet he had acknowledged them to be necessary, fundamental parts of the system.—Where then was the check? The states, having no constitutional controul, would soon be found unnecessary and useless, and would be gradually extinguished. When this took place, the people would lose their liberties, and be reduced from the condition of citizens to that of subjects. It had been remarked, that there were more than two thousand state representatives throughout the union, and that the number of civil and military officers on the state establishments would far exceed those of the United States; and these circumstances, it had been said, would create such an attachment and dependence on the state governments, as would give them a superiority over the general government. But, said he, were the states arrayed in all the powers of sovereignty? Could they maintain armies? Had they the unlimited power of taxation? There was no comparison, he said, between the powers of the two governments. The circumstances the gentleman had enumerated, which seemed to be in favor of the states, only proved that the people would be under some advantages to discern the encroachments of Congress, and to take the alarm: But what would this signify? The gentleman did not mean that his principles should encourage rebellion: What other resource had they? None but to wait patiently till the long terms of their senators were expired, and then elect other men. All the boasted advantages enjoyed by the states were finally reduced to this. The gentleman had spoken of an enmity which would subsist between the general and state governments: What then would be the situation of both? His wish, he said, was to prevent any enmity, by giving the states a constitutional and peaceable mode of checking mal-administration by recalling their senators, and not driving them into hostilities in order to obtain redress. [Childs, *Debates*, 75–76]

—◆—

LANSING. I have closely attended the Reasons &c by (Mr Hamilton)
It is not contended but there should be two Bodies of men the one
to be a check on the other—

I alledge that the Govt. will be more perfect if both the People &
the States are represented—

If the State Govt. should Not watch the Genl Govt. and have local
[control]

The Liberties of the People would be insecure—

The State Govts. Power and Influence by *little* offices admitted

But See the Powers of the State Govt—

They have the Powers to levy and raise Money—to declare War—
Arm Men—Command the militia—&c If the[y] please to destroy the
State what can save them—

That one third of the Senate go out every two years meliorates the
System—

Tho local Objects will at all events operate—yet the Power now Con-
tended for will give local Objects a greater operation in the Genl. Gov-
ernmt.

Is it not better to call forth the local Objects on the purest Views

The Senate are to support the Genl. Govt. in its power

But the Idea should be to institute the Genl Governmt. so as to
establish and protect the State Govts.—

Otherwise One great Object of the Govt. is entirely lost— [Mc-
Kesson's Notes, NHi]

—◆—

LANSING. Representation of the States

Representation of States—

raise an army

controul [Alexander Hamilton, Notes, DLC]

* * * * *

MELANCTON SMITH observed, that when he had the honor to address
the committee on the preceding question of the representation, he
stated to them his idea, that it would be impossible, under the consti-
tution as it stands, to have such a genuine representation of the people,
as would itself form a check in the government: That therefore it be-
came our duty to provide checks of another nature. The honorable
gentleman from New-York [Alexander Hamilton] had made many per-
tinent observations on the propriety of giving stability to the senate.
The general principles laid down, he thought were just. He only dis-
puted the inferences drawn from them, and their application to the
proposed amendment. The only question was, whether the checks at-
tempted in the amendment were incompatible with that stability which

he acknowledged was essential to good government. Mr. *Smith* said he did not rise to enter at present into the debate at large. Indisposition obliged him to beg leave of the committee to defer what he had to offer to them till the succeeding day.

Convention adjourned. [Childs, *Debates*, 76]

SMITH. I Stated

That it was impossible to bring forth a genuine proper Representation Over this Extensive Continent—

That therefore Checks were necessary which were not necessary in a State Govt. where a full & genuine Represent can be had—

Will not a Sufficient degree of permanency & Stability be given to this Body with the Checks proposed

It is a Small Body—with great Powers—removed from the Inspection of the People—Perpetual & never die—

Will not this render men void in a degree of the Influence of Independent

Will they not be independent—

The[y] must Sit the greater part of the year—will probably remove to the Seat of Legislature—become in great measure estranged to their States—

Admitted the Confederat defective—but certain things in it deserve great Attention—By that Delegates elected annually and cannot Serve more than²¹

The objection is that factions would take place—it is possible—

But who would rise and move to recall a man to Serve a party— [McKesson's Notes, NH]

SMITH. impossible to form a genuine representation—

Therefore must check

Therefore must weaken the senate.

Question whether a sufficient stability will not be given?—

Six years sufficient to acquire but when practice?

Unchangeable body—

Distance will weaken dependence!

Policy of the present confederation. [Alexander Hamilton, Notes, DLC]

SMITH. Stated no proper check to so extensive a government could be devised.

As many as necessary shd. be devised—

Admitts necessity Stability

Questn. not sufficient wth. amt.

1. time [of] service 6 yrs. sufficient [to] obtain that knowledge
- 2 power will exist when formed will continue till abuse felt—
- 3 Duration lessens attachment to State— [Robert R. Livingston, Notes, NH*i*]

1. According to the *Oxford English Dictionary*, adamant meant diamond (1393–1794). This stone was unbreakable, impenetrable, impregnable. On the same day, Robert R. Livingston commented upon the use of this phrase.

2. These notes are undated and are placed here because they deal with Article I, Section 3.

3. Article V of the Articles of Confederation stated that “no person shall be capable of being a delegate [to Congress] for more than three years in any term of six years” (CDR, 87).

4. Article V of the Articles of Confederation stated that “a power [was] reserved to each state, to recal its delegates, or any of them, at any time within the year, and to send others in their stead, for the remainder of the Year” (CDR, 87).

5. The word should be “recall” not “rotation.”

6. The Virginia Resolutions—presented to the Constitutional Convention on 29 May 1787 by Edmund Randolph—stated that the members of the House of Representatives were “to be incapable of re-election for the space of after the expiration of their term of service, and to be subject to recall.” On 12 June the Committee of the Whole, on the motion of Charles Pinckney of South Carolina, rejected this provision *nemine contradicente* (Farrand, I, 20, 210, 217, 221).

7. George Clinton was first elected governor of New York in 1777 and reelected for three-year terms in 1780, 1783, and 1786. After 1788, he was elected in 1789, 1792, and 1801.

8. The reference here is to the North-South division on the matters of navigation or trade laws and the sectional division over the navigation of the Mississippi River. See CC:46.

9. See note 12 (below).

10. Livingston apparently made these notes of his speech after Lansing had spoken in reply. See at note 11 for Lansing’s reply and at note 13 for Livingston’s rejoinder.

11. Congress, not the Senate alone, has the power to declare war. In his response (at note 13), Robert R. Livingston corrected Lansing on this point.

12. Article XXVI of the New York constitution (1777) stated: “That sheriffs and coroners be annually appointed; and that no person shall be capable of holding either of the said offices more than four years successively, nor the sheriff of holding any other office at the same time” (Thorpe, V, 2634).

13. The reference is to the speech of John Lansing, Jr., which immediately preceded Livingston’s speech. See at note 11 (above).

14. Childs’s version of the Morris speech makes no mention of the fact that if the United States were attacked by a foreign power the existing conflict between different sections of America would prevent it from effectively defending itself.

15. For a brief discussion of the New York Senate, see RCS:N.Y., Vol. 1, p. xxiii.

16. The reference is to a work entitled *Utopia* that Sir Thomas More (1478–1535), English humanist and statesman, published in 1516. More’s *Utopia* was “an imaginary island” possessing “a perfect social, legal, and political system” (OED).

17. Matthew 7:26–27. “And every one that heareth these sayings of mine, and doeth them not, shall be likened unto a foolish man, which built his house upon the sand: And the rain descended, and the floods came, and the winds blew, and beat upon that house; and it fell: and great was the fall of it.”

18. Each year, New York elected one-quarter of its senators (RCS:N.Y., Vol. I, p. xxiii).

19. By an act passed in 1743 the New York General Assembly was to "have Continuance for Seven Years and no longer." See *Session Laws* (New York, 1743), 17 (Evans 5255). The New York act was modeled on the English Septennial Act of 1716, which superseded the Triennial Act of 1694 and extended the term of Parliament to seven years.

20. Hamilton made these notes for a speech in response to the second speech by John Lansing, Jr., on 24 June. The notes appear in the Hamilton Papers immediately after Hamilton's account of Lansing's speech (RCS:N.Y., 1852). Hamilton waited for several other speakers to discuss the Senate before giving the speech that included these ideas.

21. See note 3 (above).

Newspaper Report of Convention Debates, 24 June 1788

New York Journal, 27 June 1788

A gentleman, who left Poughkeepsie on Tuesday afternoon, informs, that the convention on that morning, took up the third section, and after the secretary had read it, Mr. Gilbert Livingston, delegate from Dutchess, made a motion for an amendment, to this purpose, that the state legislatures should have power to call their senators whenever they thought proper, provided that new appointments were made immediately, and that no senator who had served six years, should be eligible until twelve years after. He advocated this amendment in a very sensible speech, Judge Morris spoke a few words in answer, and Mr. Chancellor Livingston, and Mr. Hamilton went more fully into the merits of the subject, Mr. M. Smith made some remarks on the speeches of the chancellor and Mr. Hamilton. Our informant adds, that it was said the subject would be renewed on Monday, when it was expected some other members on both sides of the question, would take a part in the debate. That Mr. Lansing replied principally to the chancellor's arguments, &c.

Editors' Note

The Arrival in New York of the News of New Hampshire's Ratification of the Constitution 24 June 1788

On 24 June a rider arrived in Poughkeepsie with the news that the New Hampshire Convention had ratified the Constitution. According to Article VII of the Constitution, once nine state conventions had ratified, the Constitution would go into effect among the ratifying states. New Hampshire was the ninth state to ratify.

News of New Hampshire's ratification seemingly had little impact on the New York Convention. Federalist Philip Schuyler, an observer, looked upon the news as "happy intelligence" which had "infinitely Chagrined" Antifederalists. He declared, however, that the news "does

not seem to have had Any effect on their *system*,” and he suspected that Antifederalists would “pertinaciously insist” upon previous amendments (to James Madison, 24 June [RCS:N.Y., 1212], and to Henry Van Schaack, 26 June [VI, below]). Schuyler also speculated that Antifederalists might adjourn the Convention “under pretence of taking the sense of their constituents, but this is very problematical” (to John Bradstreet Schuyler, 26 June [VI, below]). On the question of adjournment, see also Abraham Bancker to Evert Bancker, 28 June [RCS:N.Y., 1230].). Without referring to the news of New Hampshire ratification, Alexander Hamilton wrote James Madison on 25 June that “Our chance of success here is infinitely slender, and none at all if you [Virginia] go wrong” (RCS:N.Y., 1226). Two days later Hamilton informed Madison that “There are some slight symptoms of relaxation in some of the leaders; which authorises a gleam of hope, if you do well: but certainly I think not otherwise” (RCS:N.Y., 1213). John Jay, a more optimistic Federalist delegate, told George Washington that “The accession of new Hampshire does good—and that of Virginia would do more” (post-24 June 1788, VI, below).

Christopher P. Yates, an Antifederalist delegate, wrote that “Federalists appear much elated” by the news of New Hampshire ratification, but he saw “no change in the countenance, the opinion or the resolution of any” Antifederalists (to Abraham Yates, Jr., 27 June [VI, below]). Henry Oothoudt, the Antifederalist chairman of the committee of the whole, asserted that the news “Does not seem to make an Impression I Expect it will not” (to Abraham Yates, Jr., 27 June [VI, below]). George Clinton wrote that the news “has not had the least Effect on our Friends at this Place” and that “The Anti’s are Firm & I hope and believe will remain so to the End” (to John Lamb, and to Abraham Yates, Jr., both 28 June [VI, below]). Melancton Smith predicted that “The accession of New Hampshire will have no other effect upon our convention, than softning them to consider what is proper to be done in the present situation of things, if it has that—Indeed I can scarcely perceive any effect it has had—And the most I fear is that there will not be a sufficient degree of moderation in some of our most influential men, calmly to consider the circumstances in which we are, and to accommodate our decisions to those circumstances” (to Nathan Dane, 28 June [RCS:N.Y., 2015]). Daniel Huger, a South Carolina congressional delegate who attended the debates, told Antifederalist Abraham Yates, Jr., a New York congressional delegate, that the news from New Hampshire “made no impression on the Convention at all—So that they [Federalists] recur to their old hopes to git the Members Devided or to an Adjorment” (RCS:N.Y., 1245). For more on the desire

of Federalists for an adjournment, see Yates to Abraham G. Lansing, 29 June (RCS:N.Y., 1240).

The arrival of the news of New Hampshire ratification on 24 June briefly became a point of contention the next day in the Convention debates. Federalist Robert R. Livingston observed that “the ground of the present debate changed. The confederation . . . was now *dissolved*.” Livingston was much concerned about the danger of disunion if New York failed to ratify the Constitution. He believed that some opponents of the Constitution “might contemplate disunion without pain” (Convention Debates, 25 June, below).

Antifederalists were quick to answer Livingston. Melancton Smith “confessed” that New Hampshire ratification “had not altered his feeling or wishes” and that the “circumstances” had not changed even though nine states had ratified. John Lansing, Jr., agreed that the “circumstances” had not changed. Ratification by a ninth state, he said, ought not to influence our deliberations since “it is still our duty to maintain our rights.” “We ought not however,” he continued, “to suffer our fears to force us to adopt a system, which is dangerous to liberty.” Lansing also denied that any Convention delegate wanted to see the Union dissolved (Convention Debates, 25 June, below).

See also “News of New Hampshire and Virginia Ratification Arrives in New York,” 24 June–2 July 1788 (RCS:N.Y., 1210–21), “The Establishment of a Federalist Express System Between the New Hampshire and New York Conventions,” 4–16 June 1788 (RCS:N.Y., 1124–28), and “The Federalist Express System Between the New Hampshire, New York, and Virginia Conventions,” 24–26 June 1788 (RCS:Va., 1672–75).

The New York Convention Wednesday 25 June 1788

Convention Debates, 25 June 1788

Section third was again read—when

MELANCTON SMITH resumed his argument as follows. The amendment embraces two objects: First, that the senators shall be eligible for only six years in any term of twelve years; Second, that they shall be subject to the recall of the legislatures of their several states. It is proper that we take up these points separately. I concur with the honorable gentleman [Alexander Hamilton], that there is a necessity for giving

this branch a greater stability than the house of representatives. I think his reasons are conclusive on this point. But, Sir, it does not follow from this position that the senators ought to hold their places during life. Declaring them ineligible during a certain term after six years, is far from rendering them less stable than is necessary. We think the amendment will place the senate in a proper medium between a fluctuating and a perpetual body. As the clause now stands, there is no doubt that the senators will hold their office perpetually; and in this situation, they must of necessity lose their dependence and attachment to the people. It is certainly inconsistent with the established principles of republicanism, that the senate should be a fixed and unchangeable body of men. There should be then some constitutional provision against this evil. A rotation I consider as the best possible mode of affecting a remedy. The amendment will not only have a tendency to defeat any plots, which may be formed against the liberty and authority of the state governments, but will be the best means to extinguish the factions which often prevail, and which are sometimes so fatal in legislative bodies. This appears to me an important consideration. We have generally found, that perpetual bodies have either combined in some scheme of usurpation, or have been torn and distracted with cabals—Both have been the source of misfortunes to the state. Most people acquainted with history will acknowledge these facts. Our Congress would have been a fine field for party spirit to act in—That body would undoubtedly have suffered all the evils of faction, had it not been secured by the rotation established by the articles of the confederation.¹ I think a rotation in the government is a very important and truly republican institution. All good republicans, I presume to say, will treat it with respect.

It is a circumstance strongly in favor of rotation, that it will have a tendency to diffuse a more general spirit of emulation, and to bring forward into office the genius and abilities of the continent—The ambition of gaining the qualifications necessary to govern, will be in some proportion to the chance of success. If the office is to be perpetually confined to a few, other men of equal talents and virtue, but not possessed of so extensive an influence, may be discouraged from aspiring to it. The more perfectly we are versed in the political science, the more firmly will the happy principles of republicanism be supported. The true policy of constitutions will be to increase the information of the country, and disseminate the knowledge of government as universally as possible. If this be done, we shall have, in any dangerous emergency, a numerous body of enlightened citizens, ready for the call of their country. As the constitution now is, you only give an opportunity

to two men to be acquainted with the public affairs. It is a maxim with me, that every man employed in a high office by the people, should from time to time return to them, that he may be in a situation to satisfy them with respect to his conduct and the measures of administration. If I recollect right, it was observed by an honorable member from New-York [Robert R. Livingston], that this amendment would be an infringement of the natural rights of the people. I humbly conceive, if the gentleman reflects maturely on the nature of his argument, he will acknowledge its weakness. What is government itself, but a restraint upon the natural rights of the people? What constitution was ever devised, that did not operate as a restraint on their original liberties? What is the whole system of qualifications, which take place in all free governments, but a restraint? Why is a certain age made necessary? Why a certain term of citizenship? This constitution itself, Sir, has restraints innumerable.—The amendment, it is true, may exclude two of the best men: but it can rarely happen, that the state will sustain any material loss by this. I hope and believe that we shall always have more than two men, who are capable of discharging the duty of a senator. But if it should so happen that the state possessed only two capable men, it will be necessary that they should return home, from time to time, to inspect and regulate our domestic affairs. I do not conceive the state can suffer any inconvenience. The argument indeed might have some weight were the representation very large: But as the power is to be exercised upon only two men, the apprehensions of the gentlemen are entirely without foundation.

With respect to the second part of the amendment, I would observe that as the senators are the representatives of the state legislatures, it is reasonable and proper that they should be under their controul. When a state sends an agent commissioned to transact any business, or perform any service, it certainly ought to have a power to recall him. These are plain principles, and so far as they apply to the case under examination, they ought to be adopted by us. Form this government as you please, you must at all events lodge in it very important powers: These powers must be in the hands of a few men, so situated as to produce a small degree of responsibility. These circumstances ought to put us upon our guard; and the inconvenience of this necessary delegation of power should be corrected, by providing some suitable checks.

Against this part of the amendment a great deal of argument has been used, and with considerable plausibility. It is said if the amendment takes place, the senators will hold their office only during the pleasure of the state legislatures, and consequently will not possess the

necessary firmness and stability. I conceive, Sir, there is a fallacy in this argument, founded upon the suspicion that the legislature of a state will possess the qualities of a mob, and be incapable of any regular conduct. I know that the impulses of the multitude are inconsistent with systematic government. The people are frequently incompetent to deliberate discussion, and subject to errors and imprudencies. Is this the complexion of the state legislatures? I presume it is not. I presume that they are never actuated by blind impulses—that they rarely do things hastily and without consideration. My apprehension is, that the power of recall would not be exercised as often as it ought. It is highly improbable that a man, in whom the state has confided, and who has an established influence, will be recalled, unless his conduct has been notoriously wicked.—The arguments of the gentleman therefore, do not apply in this case. It is further observed, that it would be improper to give the legislatures this power, because the local interests and prejudices of the states ought not to be admitted into the general government; and that if the senator is rendered too dependent on his constituents, he will sacrifice the interests of the Union to the policy of his state. Sir, the senate has been generally held up by all parties as a safeguard to the rights of the several states. In this view, the closest connection between them has been considered as necessary. But now it seems we speak a different language—We now look upon the least attachment to their states as dangerous—We are now for separating them, and rendering them entirely independent, that we may root out the last vestige of state sovereignty.

An honorable gentleman from New-York [Alexander Hamilton] observed yesterday, that the states would always maintain their importance and authority, on account of their superior influence over the people. To prove this influence, he mentioned the aggregate number of the state representatives throughout the continent. But I ask him, how long the people will retain their confidence for two thousand representatives, who shall meet once in a year to make laws for regulating the height of your fences and the repairing of your roads? Will they not by and by be saying,—Here, we are paying a great number of men for doing nothing: We had better give up all the civil business of our state with its powers to congress, who are sitting all the year round: We had better get rid of the useless burthen. That matters will come to this at last, I have no more doubt than I have of my existence. The state governments, without object or authority, will soon dwindle into insignificance, and be despised by the people themselves. I am, sir, at a loss to know how the state legislatures will spend their time. Will they make laws to regulate agriculture? I imagine this will be best regulated by the sagacity and industry of those who practise it. Another reason offered

by the gentleman [Alexander Hamilton] is, that the states will have a greater number of officers than the general government. I doubt this. Let us make a comparison. In the first place, the federal government must have a compleat set of judicial officers of different ranks throughout the continent: Then, a numerous train of executive officers, in all the branches of the revenue, both internal and external, and all the civil and military departments. Add to this, their salaries will probably be larger and better secured than those of any state officers. If these numerous offices are not at once established, they are in the power of congress, and will all in time be created. Very few offices will be objects of ambition in the states. They will have no establishments at all to correspond with some of those I have mentioned—In other branches, they will have the same as congress. But I ask, what will be their comparative influence and importance? I will leave it, sir, to any man of candour, to determine whether there will not probably be more lucrative and honorable places in the gift of congress than in the disposal of the states all together. But the whole reasoning of the gentlemen rests upon the principle that the states will be able to check the general government, by exciting the people to opposition: It only goes to prove, that the state officers will have such an influence over the people, as to impell them to hostility and rebellion. This kind of check, I contend, would be a pernicious one; and certainly ought to be prevented. Checks in government ought to act silently, and without public commotion. I think that the harmony of the two powers should by all means be maintained: If it be not, the operation of government will be baneful—One or the other of the parties must finally be destroyed in the conflict. The constitutional line between the authority of each should be so obvious, as to leave no room for jealous apprehensions or violent contests.

It is further said, that the operation of local interests should be counteracted; for which purpose, the senate should be rendered permanent. I conceive that the true interest of every state is the interest of the whole; and that if we should have a well regulated government, this idea will prevail. We shall indeed have few local interests to pursue, under the new constitution: because it limits the claims of the states by so close a line, that on their part there can be little dispute, and little worth disputing about. But, sir, I conceive that partial interests will grow continually weaker, because there are not those fundamental differences between the real interests of the several states, which will long prevent their coming together and becoming uniform.

Another argument advanced by the gentlemen [Robert R. Livingston and Alexander Hamilton] is, that our amendment would be the means of producing factions among the electors: That aspiring men would

misrepresent the conduct of a faithful senator; and by intrigue, procure a recall, upon false grounds, in order to make room for themselves. But, sir, men who are ambitious for places will rarely be disposed to render those places unstable. A truly ambitious man will never do this, unless he is mad. It is not to be supposed that a state will recall a man once in twenty years, to make way for another. Dangers of this kind are very remote: I think they ought not to be brought seriously into view.

More than one of the gentlemen have ridiculed my apprehensions of corruption. How, say they, are the people to be corrupted? By their own money? Sir, in many countries, the people pay money to corrupt themselves: why should it not happen in this? Certainly, the congress will be as liable to corruption as other bodies of men. Have they not the same frailties, and the same temptations? With respect to the corruption arising from the disposal of offices, the gentlemen have treated the argument as insignificant. But let any one make a calculation, and see whether there will not be good offices enough, to dispose of to every man who goes there, who will then freely resign his seat: for, can any one suppose, that a member of congress would not go out and relinquish his four dollars a day,² for two or three thousand pounds a year? It is here objected that no man can hold an office created during the time he is in Congress—But it will be easy for a man of influence, who has in his eye a favorite office previously created and already filled, to say to his friend, who holds it—Here—I will procure you another place of more emolument, provided you will relinquish yours in favor of me. The constitution appears to be a restraint, when in fact it is none at all. I presume, sir, there is not a government in the world in which there is greater scope for influence and corruption in the disposal of offices. Sir, I will not declaim, and say all men are dishonest; but I think that, in forming a constitution, if we presume this, we shall be on the safest side. This extreme is certainly less dangerous than the other. It is wise to multiply checks to a greater degree than the present state of things requires. It is said that corruption has never taken place under the old government—I believe, gentlemen hazard this assertion without proofs. That it has taken place in some degree is very probable. Many millions of money have been put into the hands of government, which have never yet been accounted for: The accounts are not yet settled, and Heaven only knows when they will be.

I have frequently observed a restraint upon the state governments, which Congress never can be under, construct that body as you please. It is a truth, capable of demonstration, that the nearer the representative is to his constituent, the more attached and dependent he will be—In the states, the elections are frequent, and the representatives numerous: They transact business in the midst of their constituents,

and every man may be called upon to account for his conduct. In this state the council of appointment are elected for one year.³—The proposed constitution establishes a council of appointment who will be perpetual—Is there any comparison between the two governments in point of security? It is said that the governor of this state is always eligible: But this is not in point. The governor of this state is limited in his powers—Indeed his authority is small and insignificant, compared to that of the senate of the United States. [Childs, *Debates*, 76–81]

—◆—
SMITH. I concur that the Senate should have a degree of Stability to make them Systematical and firm—

To establish rotation will make them more firm—

If a Man knows that at the Expiration of Six years he cannot be reelected—he will be more firm—Exercise his own Judgment. more and be less dependent on Office—

There will [be] Stability sufficient with Rotation

It is contrary to the Ideas of a Republican Government. to make any Body perpetual without change—

If a faction takes place, without Rotation, it will last during the Lives of the Members—

Rotation destroyed or removed the Factions in Congress Those factions had a bad Influence—

Rotation brings forward more Men of Abilities this will be a great Advantage

A Benefit that Senators return home to inform and Explain in the States

And also to know the circumstances of the People—

Two Objections

1st. That it will be a Restraint on the Natural Liberty of the People
Answer—

All Govt. is a Restraint

This Very Clause has two Restraints as it now Stands—

2d. By this provision we may exclude the two best Men in the State—

Answer It will scarce be found that two Men only in the State will be so Superior to all others—If there should be *two such* they will be sometimes wanted at home to assist in State Police

The Senate are to represent the State in the Sovereignty—

If the Agents do not represent the State well, the State ought to have the Power to recall—All agents ought to be responsible in the nature of things—

It is said If this amendmt. takes place, the Senators will hold their Seats at the pleasure and will want Stability

Stability in a Repub: should only be such as to prevent hasty measures

Recall from Misinformat[ion] &c

This might apply to the People at large Not to the State Legislature
Objection

This Power should not be given because it will make the Senators attend only to local Interests—

This is non consistent with the Reasons given for equality in Senate

It was said that the States would have more Influence over the People than the Genl. Govt.

because 2000 Represent

Will the People long retain respect for a Legislature to regulate fences What have the Legislature to regulate in Agriculture—It must regulate itself—

Will the State Legislatures have more Officers—doubtful even that— but more probable the more Important—

Your State Officers depend on the Legislature—The Officers of Genl. Governmt. cannot have their Salaries lowered—they may be raised—

I[t] was said the State Governmts. could excite the People agt. the Genl Govt. This will be a bad Check—Will produce misery—and perhaps annihilate the one Govt. or the other—

The[y] Should be so formed as to harmonise

The Local Interests of the States was another Argumt. in favor of the Senators being independt. of Recal—

The Interests of all the States will leave very few local Interests

The Rule of Taxation here established will destroy most local Interests—

The local Interests will only arise between Navigating and non Navigating States—This Prejudice ought to remain—Every Navigation Law Will be a Matter of Compromise 8 States who navigate must Compromise with the 5 non-navigating States—

There is not difference of Interest which is supposed on this Head

Factions in the Legislature was assigned as another Argumt. ambitious Men will not render places less Permanent

The Legislature will not recall without Cause—The Danger very remote and distant—

A Gent. [Robert R. Livingston] says whence will Corruption arise? will people bribe with their own Money—

Answer—In Many Countries People are taxed & pay money

As to Offices—

There will be Offices enough under the Genl. Govt. to give Every Member an Office as he goes out—

True A Member cannot take a new Office or one whose Salary is encreased—But tis easy to change an office

Consider the number of offices—These are to be given by the President and Senate—

Shew any Govt. that will have so many offices—

Men are alike in all ages—

I would form a reasonable Check—

It is said there has as yet been no Corruption—

We know not—

Millions of money in the Hands of the present Govt. is yet unaccounted for]

The Genl Govt. compared to our own—

In the State Govt. the Districts Small—they return to their Neighbours they are asked the Reasons of

Our Council of appointmt. has checks—they are for one year—The State Council [i.e., U.S. Senate] will exist for 6 years & perhaps be perpetual

The Comparison of our State Govr. will not hold—his Powers are very limited— [McKesson's Notes, NHi]



SMITH. Amendmt 2 Objs.

recal—rotation—

Argt. not weight as 2d po.—

Agrees shd. have more Stability.

does not follow shd. be perpetual—

rotation less temptation fraud—

Senate *perpetual* body. partially changed not whole—

create dependance—Every govt. shd. be provision for rotation

Contrary principles government any branch fixed & permanent body—

May break up *faction*—prevail in our own Councils—

Ques: do they less prevail Congress where is rotation

Brings forward more men into business—

All government restraint upon natural Liberty therefore rotation not more so—

Qualification age—residence^(a)—

Note [restd.?] supposed want qualifications—

that no great inconvenience in changing men

more than two in State—

Part [unrepresented?]

2d part.

Senate represents State—

Man right recal his agent—

Argt. from instability tho applies to people not Legislature

Improbable exercise right
 Not an surprize—but hearing his defence—
 Appd. them to preserve rights State & now fear to make dep[enden]t
 least should preserve those rights—
 Whether people retain any respect for State Govt. when powers *in-*
significant
 Ques: what power does it take away? taxation—
 State Govt. no offices—not 5 valuable offices—
 State Gt. Judges in States—Supervisors Assessors—Excise &c.
 Line shd be drawn clearly as to power State governments—Shd
 therefore have power to remove—
 Interest every State interest whole
 Old confederation no established rule—here rights each *State deter-*
mined—
 Argt. agt necessity recall—
 Wishes prejudices may *exist*—
 Factious men who wish for place not recall least same thing happens
 to him—
 not to be supposed—
 Corruption.
 peoples money corrupt members—
 foreign powers—
 Offices when members when they go out
 Money unaccounted for—Officers generally corrupt
 Council appointmt. cant be elected two yrs.—
 Govr. power limited—
 nominate all off[icers]

(a) Livingston wrote in the left margin opposite this line and the two previous lines “NB rotation when/necessary established/by State—.” [Robert R. Livingston, Notes, NH]

—◆—
 SMITH. The Senate will be a small Body, distant from the people in a situation not to be observed by them—

Men are apt in this condn. to forget their dependance—to lose their sympathy—to contract selfish habits—factions are apt to be formed & if the Body continues unchanged to continue & become hered[itar]y—the present Congress eligible only 3 years out of 6, and recallable—It has been beneficial—had it not been the case, factions might have proved ruinous—A Senator will be most of his time from home—will associate with none but his own class—will become a stranger to the cond. of the people—

He should return and be obliged to live with the people
 To revive his Sympat[h]y & sense of dependence—
 To give oppy. to gain knowledge & information of the State of his
 Cons[tituents]

It will give oppurty of bringing forward the best informed Men—
 of promoting knowledge in govt. among more ind[ividual]s—
 of diffusing more generally the information of the administrn. by
 means of those, who are [sent?]

By this means the people will have more confidence—

When they see those who have been in high office, [then return?] among them, as privt. Citizens They will feel more sensible that the government is of their own choice—More necessary to have this check, from the smallness of the Representation, and the impracticability of having it larger— [Melancton Smith, Notes for Speech, N]

◆

On the Senate

SMITH. The Senate are to consist of two members from each State chosen by the legislatures for six years &c—

I shall not object to the equality of representation in the Senate, I think it a prudent establishment, as it will have a tendency to preserve the State governments—it is indeed almost the only thing in the system, that affords any security on that head—

The time of service for the Senate is in my judgment too long—I confess the particular period proper for the Senate to serve is in some measure matter of opinion—By the present conf[ederation] members of Congress are chosen annually their business requires as much knowledge experience & stability as will be required in the Senate and more—perhaps however the nature of the business which the Senate will have to transact renders it proper that they should be chosen for a longer term, but a medium ought to be observed, Six years is a long time to be in an elective office—Men who are a long time in office are apt to lose a sense of their dependence on the people, to become insensible to the condition of their constituents and to contract callous habits—Besides the people of this Country have not been accustomed to appointments for such long terms—And will therefore probably not have confidence in persons who hold them—four years would be a time sufficient to check popular erroneous opinions, which are generally transient and of short duration—It is sufficient to give permanency and stability to measures, and to give oppurtunity to acquire political information—But I have a more weighty objection to this part of the system, and that is that the members may serve perpetually—It is not improbable that [– –] some men may be repeatedly elected to

Seats in the Senate, and that in process of time the place of Senator may be held for Life—

I think there are many reasons in favour of the provis[ion] in the present articles of confed., which declares that no member of Congress shall be eligible for more than three years out of six—

The Senate will be a small body, they will be distant from the people, and in a situation, not to be observed by them—placed in this situation men are extremely apt to become insensible to their dependance on the people, to lose a just sense of their Interest, to contract selfish habits and to pursue private Interests—To recall the Ideas of their dependance and to rekindle a sense of the Interests of their constituents it seems of the highest importance, that they should return to private Life and mix with the people—Besides by continuing long in office a man becomes a stranger to the condition and feelings of the people—A Senator will be by far the greatest part of his time from home, he will associate with none but those of his rank, and by this means he will forget the state of his constituents, be void of sympathy with them and in a considerable degree unacquainted with their true situation—It will be proper therefore that he should return to his state as well to revive his sympathy & sense of dependance as to gain knowledge & information of the state of his Const[itue]nts—Besides a rotation in the office of Senators, will give oppor[ty]. of bringing into the service of their country a greater number of well informed men—and by the means of those who return to mix with the people, of diffusing among the people knowledge & information—

Another provision I would have respecting the Senate, & that is a right in the Legislatures to recall them—This right is now in the States under the confederation and appears to me founded in the strictest propriety

Nothing can be more consonant to the reason and fitness of things, than that the man or body of men who appoint an agent to manage business for them, should retain in their hands the right of removing them when they conduct in a manner disagreeable to them—The Senate will be the representatives of the States as such and is it not in the highest degree improper, that the authority sover[e]ign of a state should relinquish the right to displace a representative, and fix him in office for six years—let [him] behave ever so unfaithfully? This right of recall will tend to keep the Senate dependant on the States, and from hence attentive to their duty.

No danger of their being too dependent

No danger of abuse of this power, instance in the present [Confederation?] [Melancton Smith, Notes for Speech, N]

—◆—

SMITH. Equality of Represent. in the Senate we are told was matter of compromise, to preserve the State Sovereign. & place men as guardians—But still, we must take care if possible to render them indep. of the States—

It is sd. there is too great anxiety for the State governts. the genl. govt. is looked upon as a vulture preying up[on] the St. Govts.—

The apprehension that the State govts. is more Ideal—The genl. govt. is armed at all points—The State govts. defenceless—

But it is said the State govts. will have more influ[enc]e than the gen. because

1 They have 2000—members of Leg—But they will have power to do very little—

2. They have more Offices to give—I an[swer] not so many valuable ones—

3. It is natural for people to look to those who regulate agriculture &c—& therefore whenever the general Govt. meditate an attack the people will resist—

This amots. to no more than this, that the State Legisl. will have great power to form oppos. agt. the genl govt.—this a pernicious check—they ought to harmonize—have mutual confidence—act in concert—To this end the powers should be precisely defined—and the general govt. have a reasonable dependence on the States.—

It [is] said local Interests must be counteracted—The Interests of the whole is the true local Intts.—This will more and more appear to the States—But few local Interests to pursue—most of those which gave occasion for this influence removed—Taxes—diff[eren]t duties on commerce—

The principal remaining one that between the carrying & non carrying States—This will every day appear more Ideal than substantial—But if it continues, local prejudices cannot be removed and perhaps oug[h]t not—every law relating it must be matter of compromise—in making wh. local attachments will be useful—

It is sd. factions wd. be formed, to recall to fill their places—

Those who wish for places wd not be likely to render them less permanent—

Corruption is again, as it has been, treat[e]d as a chimer[ical] Idea—

The Repres. must give the money, therefore they cannot be corrupted—I ask is it a strange thing for the people to be corrupted wt. their own money—They are as exposed to foreign corruption as any other Country—

They will be exposed to all that kind of influence arising from grants of lucrative offices—for though they cannot hold an office while they hold a Seat, they may accept one & leave their Seat—except such as have been created or the emoluments encreased while they are Senators—these they cannot hold until their time expires—

offices appd. by Presid wt. advice of Senate—Many lucrative offices—

Said that Corrupt. has not taken place under Congress—

Compd. to State Govts— [Melancton Smith, Notes for Speech, N]

* * * * *

ALEXANDER HAMILTON. Mr. Chairman, in debates of this kind it is extremely easy, on either side, to say a great number of plausible things. It is to be acknowledged, that there is even a certain degree of truth in the reasonings on both sides. In this situation, it is the province of judgment and good sense to determine their force and application, and how far the arguments advanced on one side, are balanced by those on the other. The ingenious dress, in which both may appear, renders it a difficult task to make this decision, and the mind is frequently unable to come to a safe and solid conclusion. On the present question, some of the principles on each side are admitted, and the conclusions drawn from them denied, while other principles, with their inferences, are rejected altogether. It is the business of the committee to seek the truth in this labyrinth of argument.

There are two objects in forming systems of government—Safety for the people, and energy in the administration. When these objects are united, the certain tendency of the system will be to the public welfare. If the latter object be neglected, the people's security will be as certainly sacrificed, as by disregarding the former. Good constitutions are formed upon a comparison of the liberty of the individual with the strength of government: If the tone of either be too high, the other will be weakened too much. It is the happiest possible mode of conciliating these objects, to institute one branch peculiarly endowed with sensibility, another with knowledge and firmness. Through the opposition and mutual controul of these bodies, the government will reach, in its regular operations, the perfect balance between liberty and power. The arguments of the gentlemen chiefly apply to the former branch—the house of representatives. If they will calmly consider the different nature of the two branches, they will see that the reasoning which justly applies to the representative house, will go to destroy the essential qualities of the senate. If the former is calculated perfectly

upon the principles of caution, why should you impose the same principle upon the latter, which is designed for a different operation? Gentlemen, while they discover a laudable anxiety for the safety of the people, do not attend to the important distinction I have drawn. We have it constantly held up to us, that as it is our chief duty to guard against tyranny, it is our policy to form all the branches of government for this purpose. Sir, it is a truth sufficiently illustrated by experience, that when the people act by their representatives, they are commonly irresistible. The gentleman [Melancton Smith] admits the position, that stability is essential to the government, and yet enforces principles, which if true, ought to banish stability from the system. The gentleman observes that there is a fallacy in my reasoning, and informs us that the legislatures of the states—not the people, are to appoint the senators. Does he reflect, that they are the immediate agents of the people; that they are so constituted, as to feel all their prejudices and passions, and to be governed, in a great degree, by their misapprehensions? Experience must have taught him the truth of this. Look through their history. What factions have arisen from the most trifling causes? What intrigues have been practised for the most illiberal purposes? Is not the state of Rhode-Island, at this moment, struggling under difficulties and distresses, for having been led blindly by the spirit of the multitude? What is her legislature but the picture of a mob? In this state we have a senate, possessed of the proper qualities of a permanent body: Virginia, Maryland, and a few other states, are in the same situation: The rest are either governed by a single democratic assembly, or have a senate constituted entirely upon democratic principles—These have been more or less embroiled in factions, and have generally been the image and echo of the multitude. It is difficult to reason on this point, without touching on certain delicate cords. I could refer you to periods and conjunctures, when the people have been governed by improper passions, and led by factious and designing men. I could shew that the same passions have infected their representatives. Let us beware that we do not make the state legislatures a vehicle, in which the evil humors may be conveyed into the national system. To prevent this, it is necessary that the senate should be so formed, as in some measure to check the state governments, and preclude the communication of the false impressions which they receive from the people. It has been often repeated, that the legislatures of the states can have only a partial and confined view of national affairs; that they can form no proper estimate of great objects which are not in the sphere of their interests. The observation of the gentleman therefore cannot take off the force of my argument.

Sir, the senators will constantly be attended with a reflection, that their future existence is absolutely in the power of the states. Will not this form a powerful check? It is a reflection which applies closely to their feelings and interests; and no candid man, who thinks deliberately, will deny that it would be alone a sufficient check. The legislatures are to provide the mode of electing the President, and must have a great influence over the electors. Indeed they convey their influence, through a thousand channels, into the general government. Gentlemen have endeavoured to shew that there will be no clashing of local and general interests—They do not seem to have sufficiently considered the subject. We have in this state a duty of six pence per pound on salt,¹ and it operates lightly and with advantage: But such a duty would be very burthensome to some of the states. If Congress should, at any time, find it convenient to impose a salt tax, would it not be opposed by the eastern states? Being themselves incapable of feeling the necessity of the measure, they could only feel its apparent injustice. Would it be wise to give the New-England states a power to defeat this measure by recalling their senators who may be engaged for it? I beg the gentlemen once more to attend to the distinction between the real and apparent interests of the states. I admit that the aggregate of individuals constitutes the government—yet every state is not the government: Every petty district is not the government.—Sir, in our state legislatures, a compromise is frequently necessary between the interests of counties: The same must happen in the general government between states. In this, the few must yield to the many; or, in other words, the particular must be sacrificed to the general interest. If the members of Congress are too dependent on the state legislatures, they will be eternally forming secret combinations from local views. This is reasoning from the plainest principles.—Their interest is interwoven with their dependence, and they will necessarily yield to the impression of their situation. Those who have been in Congress have seen these operations. The first question has been—How will such a measure affect my constituents, and consequently, how will the part I take affect my re-election? This consideration may be in some degree proper; but to be dependent from day to day, and to have the idea perpetually present would be the source of innumerable evils. Six years, sir, is a period short enough for a proper degree of dependence. Let us consider the peculiar state of this body, and see under what impressions they will act. One third of them are to go out at the end of two years; two thirds at four years, and the whole at six years. When one year is elapsed, there is a number who are to hold their places for one year, others for three, and others for five years. Thus, there will not only be

a constant and frequent change of members; but there will be some whose office is near the point of expiration, and who from this circumstance, will have a lively sense of their dependence. The biennial change of members is an excellent invention for increasing the difficulty of combination. Any scheme of usurpation will lose, every two years, a number of its oldest advocates, and their places will be supplied by an equal number of new, unaccommodating and virtuous men. When two principles are equally important, we ought if possible to reconcile them, and sacrifice neither. We think that safety and permanency in this government are completely reconcilable. The state governments will have, from the causes I have described, a sufficient influence over the senate, without the check for which the gentlemen contend.

It has been remarked that there is an inconsistency in our admitting that the equal vote in the senate was given to secure the rights of the states, and at the same time holding up the idea, that their interests should be sacrificed to those of the union. But the committee certainly perceive the distinction between the rights of a state and its interests. The rights of a state are defined by the constitution, and cannot be invaded without a violation of it; but the interests of a state have no connection with the constitution, and may be in a thousand instances constitutionally sacrificed. A uniform tax is perfectly constitutional; and yet it may operate oppressively upon certain members of the union. The gentlemen are afraid that the state governments will be abolished. But, Sir, their existence does not depend upon the laws of the United States. Congress can no more abolish the state governments, than they can dissolve the union. The whole constitution is repugnant to it, and yet the gentlemen would introduce an additional useless provision against it. It is proper that the influence of the states should prevail to a certain extent. But shall the individual states be the judges how far? Shall an unlimited power be left them to determine in their own favor? The gentlemen go into the extreme: Instead of a wise government, they would form a fantastical Utopia: But, Sir, while they give it a plausible, popular shape, they would render it impracticable. Much has been said about factions. As far as my observation has extended, factions in Congress have arisen from attachment to state prejudices. We are attempting by this constitution to abolish factions, and to unite all parties for the general welfare.—That a man should have the power, in private life, of recalling his agent, is proper; because in the business in which he is engaged, he has no other object but to gain the approbation of his principal. Is this the case with the senator? Is he simply the agent of the state? No: He is an agent for the union, and he is bound to

perform services necessary to the good of the whole, though his state should condemn them.

Sir, in contending for a rotation, the gentlemen carry their zeal beyond all reasonable bounds. I am convinced that no government, founded on this feeble principle, can operate well. I believe also that we shall be singular in this proposal. We have not felt the embarrassments resulting from rotation, that other states have; and we hardly know the strength of their objections to it. There is no probability that we shall ever persuade a majority of the states to agree to this amendment. The gentlemen deceive themselves—The amendment would defeat their own design. When a man knows he must quit his station, let his merit be what it may; he will turn his attention chiefly to his own emolument: Nay, he will feel temptations, which few other situations furnish; to perpetuate his power by unconstitutional usurpations. Men will pursue their interests—It is as easy to change human nature, as to oppose the strong current of the selfish passions. A wise legislator will gently divert the channel, and direct it, if possible, to the public good.

It has been observed, that it is not possible there should be in a state only two men qualified for senators. But, sir, the question is not, whether there may be no more than two men; but whether, in certain emergencies, you could find two equal to those whom the amendment would discard. Important negotiations, or other business to which they shall be most competent, may employ them, at the moment of their removal. These things often happen. The difficulty of obtaining men, capable of conducting the affairs of a nation in dangerous times, is much more serious than the gentlemen imagine.

As to corruption, sir, admitting in the president a disposition to corrupt; what are the instruments of bribery? It is said, he will have in his disposal a great number of offices: But how many offices are there, for which a man would relinquish the senatorial dignity? There may be some in the judicial, and some in the other principal departments: But there are very few, whose respectability can in any measure balance that of the office of senator. Men who have been in the senate once, and who have a reasonable hope of a re-election, will not be easily bought by offices. This reasoning shews that a rotation would be productive of many disadvantages—Under particular circumstances, it might be extremely inconvenient, if not fatal to the prosperity of our country. [Childs, *Debates*, 81–84]

HAMILTON. The Principles laid down on both Sides may be true to a certain Extent—

Each appears plausible and have a certain degree of force

We must then determine where one principle must give way to another—

We Should combine the Principles which will [give] Stability on one Side—and Safety to the Interests of the People on the other Side

The Argumts. applied here to the Senate should be applied to the House of Represent—The Senate should be formed for Stability—

When the People have an Organized Will which will pursue Measures Sistematically they will always prevail—

But danger

The Genl. Argumts. would destroy Stability

The Gent [Melancton Smith] Says that there is a falacy in my argumt. because this Body is to be chosen by the State Legislatures and not by the People—

does the Gent. recollect that the Assembly come immediately from among the People with the like Ideas principles and passions—

Is not Rhode Island an Example—A Depreciating Paper Medium carried with Violence in the Legislature—

In this State we have a Security from our Senate

—In many States only annual Bodies who represent the Violencies and Passions of the People—

The People at Times are deceived for want of Information—By this Process the Senate of the united States must guard as an Anchor to the State govt. agt. the violencies of State Legislatures and even agt. the Assem[bl]y of the Genl Govt.

The State Legislatures will Always have a vast *Momentum* in the Genl Govt.

The Power they have combining the Sentimts. of the People will have Influence—will not this have weight on the Represent in Assembly—on the Senators—On the Officers of Genl Governmt.

The State Govts. will influence the Election of Presidt.

Will they not then have too much Influence—

Will there not be a *Clashing of local Interests*—there will—

We have a Tax of 6d a Bushel on Salt—The Eastern States on acct. of their Fisheries would oppose it—

A thousand other Instances

The Agregate Good of the States I admit must be

But if they can be recalled at any moment they will be so dependt. that they will yield to it and not have firmness for national Purposes—

We have Seen Members in Congress considering how will this Affect my Seat my Interest my popu[lar]ity]

To what point is a dependence useful—I say that Six years is little enough—Experience of 3 years & 7 years [for] represent[atives] has

confirmed this⁵—Six years admits a great degree of Dependence—
More would destroy Stability—

1/3d. at two years 1/3d 4 years—1/3d Six years—

This goes as far as is consistent with any degree of Energy in the
Genl Govt. and gives a due degree of Dependence—And the House of
Represent. have a due degree of Dependence—

The great Danger will be that the Genl. Legislature will scarcely re-
tain sufficient Power

Position Stated—That the Rights of the State should not be de-
stroyed but preversed [i.e., preserved]—

The Rights of the States must be that portion of Sovereignty which
is left—which be such as should not be surrendered for the general
Good—

The State Govts. will perhaps prevail too much—

The Genl Govt. should have ability to execute Powers properly that
it may be established on solid & lasting Principles—

The Gent. Consider this as a lasting Body and Subject to factions—
Is this true—will not 1/3d be changed every year if necessary—If there
are improper Factions will not the Legislature Change—

I found that the factions in Congress turned on local Interests of
States—Change the Men the Causes remained—The Present System
will amend this at least in part—

We must have reasonable degree of Confidence and of attention in
the State Legislatures and not form too many Checks, or we Shall go
into an Extreme and have no Governmt.

It is not true that in Govt. a person delegated should be Subject to
immediate recal—the Delage [i.e., Delegate] in many Instances has the
Power of Judging—

As to Rotation

If we make them so dependt. will destroy the very use of the Senate—
Credit suffers even in this State—More in the Others—

Rotation

I say it lessens the motives to good Behavior

The Interest of the Officer in many Cases may inter[fer]e with the
Interest of the Community—He knows that however well [he] acts his
Office must cease—If he is Ambitious—will he not [be] influenced to
an ambitious Concurrence to ambitious designs—

We shall oppose the Current of the Human Heart too Violently—

It will check the Improvmt. of Knowledge—

The changing of Men more frequently does Injury than is supposed

It oftener occurs than is supposed—The most useful Individuals may
all be removed at the same time—

Let the Legislatures be left to Judge and take the Men they think best able to Serve the Country—

It is sufficient to recall at the Time

Another bad Consequence of Rotation—

One third of the Senate must go Out—The Executive says as you must go out to answer such purposes to me I will give you such or such Offices—

How many Offices to Corrupt

1st. The Judges—how few fit to accept

2d forreign Ambassadors—Seldom to be changed

3d. A few Offices in a State

4 Customs—

many of these not more respectable than Office of a Senator—

Will not the Legislature Elect Men in whom they can confide

Gross Corruption or gross Seduction much less extensive than some Gentlemen Suppose—

Rotation will be attended with danger—It will banish men perhaps most useful and send in New Men who may be imposed on for want of Information or Experience.

Deeply Convinced without such a principle in Govt. there will not be Stability—Without Stability as well as securing the Rights of the People Govt. is not Govt. [McKesson's Notes, NHi]

* * * * *

MELANCTON SMITH. Few observations have fallen from the gentleman [Alexander Hamilton] which appear to be new. He supposes factions cannot exist in the senate without the knowledge of the state legislatures; who may at the expiration of their office elect other men. I believe, sir, that factions may prevail to a considerable degree without being known. Violent factions have sometimes taken place in congress, respecting foreign matters, of which the public are ignorant. Some things have happened which are not proper to be divulged. So it by no means appears probable that the clashing of state interests will be the only cause of parties in the government. It has also been observed, that the senate has the check of the house of representatives. The gentlemen are not accurate in stating this matter. The senate is vested with certain great exclusive powers;⁶ and in the exercise of these powers, factions may as probably take place, as in any transactions whatever. The honorable member further remarks, that from the intimate connection between the state legislatures and the people, the former will be the image of the latter, and subject to the same passions and prejudices—Now, I will ask every candid man, if this is a true position. Certainly it cannot be supposed that a small body of men, selected from

the people for the purpose of making laws, will be incapable of a calm and deliberate view of political subjects—Experience has not proved that our legislatures are commonly guilty of errors arising from this source—There always has been, and ever will be, a considerable proportion of moderate and well informed men among them. Tho' factions have prevailed, there are no instances of tumultuous proceedings; no instances to prove that they are not capable of wise deliberation. It is perhaps useless for me to continue this discussion, in order to answer arguments, which have been answered before. I shall not therefore trouble the committee any more at present. [Childs, *Debates*, 84–85]

—◆—
SMITH. The Gent. [Alexander Hamilton] Observes

That factions cannot exist without being known to the State Legislature—A Mistake—they may only be known to the Presidt. and Senate alone—They must appoint foreign Ministers—make Treaties &ca. and foreign matters must be kept Secrete—

The Senate and President have many Powers of the very Nature that will probably create Factions and the Represent cannot Interfere—

The Gent. [Alexander Hamilton] said yesterday—The People always judge Right if not misinformed

Then Surely the Legislature who are cool and reason & get Information will reason Right—

I said I did not recollect any Object of Importance of local Interest but what arises from Commerce—I did not say there was none other—I say the Same now—

It may take place as to impost in some Degree—but to no great Degree

The Gent. says no need of such Check—because no Instance has happened in Confederated Govt. to make it necessary

An No Confed Govt. like

The Gent. says this Amendt. will operate to weaken a desire of Reward for past Services—admitted—but which principle will operate most Strongly—

Gent. Says it will banish Knowledge & Experience

The Reverse—

Gent Repeats the Argumt. of loosing the two best Men—

The next two best Men will [McKesson's Notes, NHi]

—◆—
SMITH. in reply to [Alexander Hamilton]

factions may *exist*—negotiations secret—

fact[ions] have actually existed—

Rotation then not prevent it—

Senate great powers; without house [of] representatives
officers—

Give *Excise*

Rotation

Worst of it confines experience on set men others not brought forward— [Robert R. Livingston, Notes, NHi]

* * * * *

ROBERT R. LIVINGSTON observed, that it would not perhaps be altogether impertinent to remind the committee, that since the intelligence of yesterday,^(a) it had become evident, that the circumstances of the country were greatly altered, and the ground of the present debate changed. The confederation, he said, was now *dissolved*. The question before the committee, was now a question of policy and expediency. He presumed the convention would consider the situation of their country. He supposed, however, that some might contemplate disunion without pain.—They might flatter themselves, that some of the southern states would form a league with us: But he could not look, without horror, at the dangers to which any such confederacy would expose the state of New-York. He said it might be political cowardice in him, but he had felt since yesterday, an alteration of circumstances, which made a most solemn impression on his mind. The amendment he considered as derogatory to the principles of the constitution, and contrary to the design of the institution of the senate. It was as clear as any position proved by experience, that the people in many instances could not know their own good; that as a body they were not capable of pursuing the true road to happiness; and that they were rarely competent to judge of the politics of a great nation, or the wisdom of public measures. This principle he said seemed to be admitted: But the gentlemen had remarked that though the argument was a good one, with respect to the people at large, it did not apply to the state legislatures. The chancellor acknowledged that the application in the last case was not so forcible: Yet he contended, that the people at large were little less capable of judging of the civil interests of their state, than the state legislatures were, of comprehending the great, political interests of the union. He said that no single member of a body could judge properly of the affairs of that body. The sphere in which the states moved was of a different nature—The transactions in which they were engaged were of a different complexion—The objects which came under their view wore an aspect totally dissimilar. The legislatures of the states, he said, were not elected with a political view, nor for the same purposes as the members of congress. Their business was to regulate the civil affairs of their several states, and therefore they ought not to possess

powers, to the proper exercise of which they were not competent. The senate was to transact all foreign business: Of this the states, from the nature of things, must be entirely ignorant. The constitution of New-York, continued the chancellor, had contemplated a deficiency of wisdom in the legislature, even in their domestic regulations: It had provided a council of revision, to correct their errors.⁷ Would the gentlemen then acknowledge that the legislatures are liable to frequent mistakes in civil affairs; and yet maintain that they are infallible with respect to the general politics of the union?

One gentleman [Gilbert Livingston] had enumerated the formidable powers of the senate; and closed the detail by a piteous description of the flowing, adamant wall.⁸ He had mentioned the power to try impeachments. But the power of impeaching was in the house of representatives, and that was the important power. It could hardly be supposed, that the representatives would exercise this power for the purposes of tyranny: But if they should, it certainly could be of no disadvantage to enable the senate to check them. In the next place, he said, the power of appointing officers was mentioned. This was unfairly stated—The senate had but a negative upon the president; they had only an advisory power. In making laws they had only a partial agency: They were checked by the representatives and president. To any unprejudiced examiner, he said, it would appear, that the constitution had provided every reasonable check, and that the authority of the senate was sufficiently circumscribed.—But the gentlemen would multiply checks, till the new government was as relaxed and nerveless⁹ as the old one.

(a) *Alluding to the adoption of the constitution by New-Hampshire.*¹⁰ [Childs, *Debates*, 85–86]

R. R. LIVINGSTON. This Argument. has not been argued fairly Owing to accident not *design*

The Objection was not expected—

The Intelligence of yesterday has changed our Situation—The Confederation now closed—

I know there a[re] Gent. who have firmness to look disunion in the face—who think we can Stand alone—who look to a league—

It is allowed “that without a certain Permanency in Office Govt. cannot be well administered”—

Supposing Every State well informed of the objects of Genl Govt. and that they would harmonise in System Genl Govt. would not be necessary.

This not the Case—Genl Govt. necessary—

The Internal Policy of the State Govts. with foreign Powers can only be known to those who are acquainted with foreign Powers—

The State Govts. have not or but partially this Informat—

Constitution admits that the Legislature may be mistaken in a matter of their own police or Govt—

Instanced The Clause creating a Council of Appointment¹¹—

The Security of our State Agents or Senators must arise from other Causes not from *recall*

They are to be chosen with deliberation by the Legislature

Their Oath of Office—their Reputation—their own Interest—

The Necessity of Continuing them in Office arises from their great Powers—Their forming Treaties—which requires a knowledge of Commerce &c have the Disposition of offices—

They are to be the Systematic Part of your Govt.

With respect to the Powers of Govt. they must [be] adequate to the objects or it becomes useless—

There must be checks or the Govt. will [be] dangerous—

Power is a Head strong Horse—requires a Curb and will even then sometimes

Will the Rider then Hamstring

To Contrive a Govt. to check it from operating—

Let us examine the Powers of the Senate—

1 They Try Causes on Impeachment.

2d. They do not appoint to Offices—They are only a check

3d. In making Law checked both by the Repres[ent]atives and the President—Money Bills they cannot originate—

4th. It [is] said they will appropriate Money—They cannot appropriate Money but with the Consent of the Reprerent Body and the President—

They are only a check on the other parts of the Genl Govt.

This Amendmt. will make them entirely dependt on the State Govt.

I know from my own Experience that the State has Suffered more than once by leaving out Members, whose times of Service might [have] been continued—Delegates from other States [who] have State Interests [have] interfered in the Electing Delegates for this State—

It is not more supposable that a foreign Ambassador may Corrupt a State Demagogue to misrepresent a Senator than that a Majority of the Represent of Genl Govt. would Corrupt State Legislatures—

If a Faction now in Congress Rotation has not prevented it—therefore proves nothing—

When the Legislature of a State shall think it right or necessary they can Change—when it [is] requisite to retain a Senator they can—

It will not do to send Senators to School—While the Senators are learning the State may be ruined— [McKesson's Notes, NHi]

* * * * *

MELANCTON SMITH. The honorable Mr. *Smith* took notice of the remark of one of the gentlemen [Alexander Hamilton], that a majority of the states would not agree to the amendment. He wondered whence the gentleman derived this knowledge. It was true no state had yet proposed it; but it was equally true, that we had not yet fully obtained the sentiments of any convention, respecting amendments. The constitution had been carried in most of the states, in such a manner, that no opportunity was afforded of bringing forward and discussing them.

With respect to the change of circumstances, which had such a solemn effect upon the honorable gentleman [Robert R. Livingston], he confessed it had not altered his feelings or wishes on the subject. He had long been convinced that nine states would receive the constitution. The gentleman [Alexander Hamilton] had taken great pains to prove that the state legislatures would be influenced by the same passions and erroneous views, which actuated the people at large. For his own part he did not understand such reasoning—He had always been taught, that the state legislatures were select bodies of men, chosen for their superior wisdom, and so organized as to be capable of calm and regular conduct. It had been observed, that the senate was only a check—If this was true, he begged to be informed where the positive power was lodged. The house of representatives had been held up as a check—the senate had been held up as a check. At this rate it was a government of negative powers. It had also been remarked, that no man could be qualified for the office of senator till he had had a long experience; because there was a certain kind of knowledge necessary, which could only be acquired in the senate. But if the policy of the government was such, said he, as to keep in the senators, till they died, or were displaced, we should always have but a few men who were acquainted with the duties of the office. The best way was to limit them to six years, and then let them come home. We should then always have a large number of men, capable of serving their country in any dangerous conjuncture. [Childs, *Debates*, 86–87]

—◆—
SMITH. The Gent says no State has agreed to this Amendmt. therefore useless—

We do not know what Amendments any State has offered—The Article has been carried by majorities without hearing Amendmts.

I am Sorry the Gent. [Robert R. Livingston] mentioned Change of Circumstances—

I do not think them Changed—

I Suppose it was unnecessary to insert that a Legislature

The Gent Says the Senate have no Power are only a check—by same Reason—Senate

The Hono[ra]ble Gent says Gent have been left out before their time of Service Expired—No—

He observes—that I said I meant send Gent to School—

I took it from his Idea of yesterday which I think true vizt that Experience is necessary and that it will require a considerable time to learn—

Gent says that foreigners & Delegates of other States have interfered in electing Delegates for this State—

The Gent holds up that the Senate cannot originate [McKesson's Notes, NHi]

* * * * *

JOHN LANSING, JR. Mr. Chairman, I do not rise to speak to the paragraph under discussion, but to make some remarks on the sentiments of the honorable gentleman from New-York [Robert R. Livingston], respecting the change in our situation. That our particular circumstances are in fact altered, since yesterday,¹² I cannot agree. It is true, we have received information that the ninth state has ratified the constitution; but I contend that no such event ought to influence our deliberations. I presume I shall not be charged with rashness, if I continue to insist, that it is still our duty to maintain our rights. We acknowledge that our dissent cannot prevent the operation of the government— Since nine states have acceded to it, let them make the experiment. It has been said, that some might contemplate disunion without terror. I have heard no sentiment from any gentleman, that can warrant such an insinuation. We ought not however, to suffer our fears to force us to adopt a system, which is dangerous to liberty. The idea of the importance of this state has not been entertained by any in sentiment with me. The suggestion first came from the other side of the house. It was nothing more than a false construction of our argument, that if unfortunately a disunion should take place, we were not in so bad a situation, that we could not provide for our safety independently of the other states. Sir, I know not any gentleman who wishes for a dissolution of the union. I make this remark because an idea has been circulated, that there are certain persons in this body who are disposed to dissolve the union, which I am persuaded is utterly false. [Childs, *Debates*, 87]

LANSING. I rise to observe on what was said by a Gent from N York [Robert R. Livingston]—and State the facts—

A Gent. [Melancton Smith] indisposed a few minutes before the Adjournmt. wished to be heard—I hope every Member in such Situation will be indulged—

Whatever difference there is in our Situation since yesterday We must not be intimidated to give up those Rights we ought to make every Exertion to preserve for the public Happiness—

I have not heard from Any Gent that they wished or without fear looked up for a disunion—I think it not founded in fact— [McKesson's Notes, NHi]



LANSING. obtain rights not part wth. tho disunited— [Robert R. Livingston, Notes, NHi]

* * * * *

GILBERT LIVINGSTON. I wish to contest two principles

1st. That the Senate as Council of Appointment Exercise no power—
The Clause Read—

2d. It is said the Senate will have no Power in trying Impeachmts. The Assembly are a Grand Jury to Indict to Impeach—The Senate are a petty Jury (*and the Court also*) to try

Sect. 4— [McKesson's Notes, NHi]

* * * * *

SAMUEL JONES. Several paragraphs of sect. 3d being passed over without debate, the 4th sect. of art. 1 was read; when Mr. *Jones* rose, and observed, that it was a fact universally known, that the present confederation had not proved adequate to the purposes of good government. Whether this arose from the want of powers in the federal head, or from other causes, he would not pretend to determine. Some parts of the proposed plan appeared to him imperfect; or at least not satisfactory. He did not think it right that Congress should have the power of prescribing or altering the time, place and manner of holding elections. He apprehended that the clause might be so construed as to deprive the states of an essential right, which, in the true design of the constitution, was to be reserved to them. He therefore wished the clause might be explained, and proposed for that purpose, the following amendment: “Resolved, as the opinion of this committee, that nothing in the constitution now under consideration, shall be construed to authorise the Congress to make or alter any regulations in any state, respecting the times, places, or manner of holding elections for senators or representatives, unless the legislature of such state shall neglect or refuse to make laws or regulations for the purpose, or from

any circumstance be incapable of making the same, and then only until the legislature of such state shall make provision in the premises.” [Childs, *Debates*, 87–88]

◆

JONES. Supposed Defects in the Confederation produced a Convention and the proposed Constitution—It was right [to] give the Powers of the first part

What is the meaning of the latter part—If it is intended to deprive the States of the power given by the first part—If it is not—let it be explained so as not [to] leave Room for fearing the *Intent* Amendment by Mr. Jones— [McKesson’s Notes, NHi]

◆

JONES. 4 Sect: under consideration
latter part may at pleasure be deprived votes—
calls for explanation
proposes a[mendment] &c [Robert R. Livingston, Notes, NHi]

ALEXANDER HAMILTON. The Gen[era]l Intent of the Clause is Suppose what is expressed in the Resolution proposed—

If that is the Opinion of the Committee—there will be no debate on the Question— [McKesson’s Notes, NHi]

JOHN JAY said that as far as he understood the ideas of the gentleman [Samuel Jones], he seemed to have doubts with respect to this paragraph, and feared it might be misconstrued and abused. He said that every government was imperfect, unless it had a power of preserving itself. Suppose that by design or accident the states should neglect to appoint representatives; certainly there should be some constitutional remedy for this evil. The obvious meaning of the paragraph was, that if this neglect should take place, Congress should have power by law to support the government and prevent the dissolution of the union. He believed this was the design of the federal convention. [Childs, *Debates*, 88]

◆

JAY. It does not appear that there is at present a Disposition to consider farther at present the Clause or Amendmt.

But let it be considered That this Country if the Govt. Organized will be under the Controul and direction of the National Govt. as the State Officers are under the Controul of the State Govt.

Should the State interfere in or regulate the Election of State Officers— [McKesson’s Notes, NHi]

* * * * *

RICHARD MORRIS suggested that so far as the people, distinct from their legislatures, were concerned in the operation of the constitution, it was absolutely necessary that the existence of the general government should not depend, for a moment, on the will of the state legislatures. The power of perpetuating the government ought to belong to their federal representatives; otherwise, the rights of the people would be essentially abridged. [Childs, *Debates*, 88]

—◆—
MORRIS. The People of the State represented and the Legislat of the State represented in the National Govt. by two different Branches—

The designs of Convention was to trust the Legislatures will they would exercise it and exercise it

Can those distinctions be held up or will they not be abolished & blended— [McKesson's Notes, NHi]

* * * * *

GEORGE CLINTON rose just to notice the attempts that had been made to influence the committee by fear, and to introduce gloomy reflexions upon the situation of the state. This had been done in heightened colours, and he thought in an indelicate manner. He said he had observed also, in the course of the debates, that a distinction had been kept up between the state legislatures and the representatives of the people, and also between the legislatures and the senators. He did not think these distinctions warrantable. They were distinctions which would never appear in operation, while the government was well administered. It was true, he said, the representatives of the people, or the senators might deviate from their duty, and express a will distinct from that of the people, or that of the legislatures: But any body might see, that this must arise from corruption. Congress, in all its branches, was to speak the will of the people, and that will was law, and must be uniform. The distinction therefore of the honorable gentlemen could have no proper weight, in the discussion of this question. [Childs, *Debates*, 88]

—◆—
CLINTON. I observe that in all Debates a Distinction is held up between the Representatives and the People—

There cannot be a just and honest distinction—

The Will of the People may be contradicted by their Representatives they may do acts agt. the will of the People—But this is by Corruption— [McKesson's Notes, NHi]

—◆—
CLINTON. No different interest between people & Legislature

Legislature express sense constituents— [Robert R. Livingston, Notes, NHi]

JOHN JAY did not think the gentleman had taken up the matter right. The will of the people certainly ought to be the law; but the only question was, how was this will to be expressed? Whether the will of the people, with respect to the time, place and manner of holding elections, ought to be expressed by the general government, or by the state legislatures. [Childs, *Debates*, 88]

JAY. The will of the People is to be the Law—But the Quest recurs [McKesson's Notes, NHi]

GEORGE CLINTON. It does not a Legislative deliberative Body cannot have tumults The [legislature] ought to speak and will Speak the will of the People— [McKesson's Notes, NHi]

MELANCTON SMITH proposed the following addition to Mr. *Jones*' motion: "and that each state shall be divided into as many districts, as the representatives it is entitled to, and that each representative shall be chosen by a majority of votes." But on suggestion that this motion was ill-timed, it was withdrawn for the present.

Convention adjourned. [Childs, *Debates*, 88]

SMITH. The Gentlemen say It more proper that the Genl Govt. rather than the State Legislature should fix the time place and Manner it should not be in the Power of any Legislature to alter the Time place and Manner—but should be left with the People forever—

And therefore I shall Move for the following Amendmt. to follow the last— [McKesson's Notes, NHi]

SMITH. That neither State or Congress change election proposes a division of States into districts— [Robert R. Livingston, Notes, NHi]

SAMUEL JONES opposes on principle that what may suit one State does not suit another— [Robert R. Livingston, Notes, NHi]

1. See Convention Debates, 24 June, note 2 (above).

2. Delegates to the Continental and Confederation Congresses were paid by their states. On 15 December 1775 the New York Provincial Congress decided to pay the New York delegates to the Continental Congress \$4.00 a day for their service in that body. (See Smith, *Letters*, II, 295n.)

3. The Council of Appointment consisted of the governor and four senators, one from each of the four senatorial districts. These four senators, appointed annually by the state Assembly, were ineligible for a second successive term. The governor served as the council's president but could vote only in the case of a tie. (See RCS:N.Y., 501–2.)

4. According to the 11 April 1787 act imposing duties on goods and merchandise imported into New York, a duty of six pence was imposed on “Every bushel of salt, water measure” imported. See *Laws of the State of New-York, Passed by the Legislature of said State, at their Tenth Session* [12 January–21 April 1787] (New York, 1787), 144 (Evans 20578).

5. The reference is possibly to the English Triennial Act of 1694 and the Septennial Act of 1716. Under the former act, the existing Parliament was to be dissolved on or before 1 November 1696, and after that date a general election was to be held within three years following the dissolution. A new Parliament would then meet and it was to be the same for all future dissolutions. Moreover, no future Parliament was to sit for more than three years. See also *Convention Debates*, 24 June, note 17 (above).

6. Under the Constitution, the Senate had the “sole Power to try all Impeachments” (Article I, section 3, clause 6); by a two-thirds vote the Senate could advise and consent to treaties (Article II, section 2, clause 2); and the Senate could advise and consent to certain appointments made by the President (Article II, section 2, clause 2).

7. For a brief discussion of the Council of Revision, see RCS:N.Y., Vol. 1, p. xxiv, and for the text of the state constitution providing for the council, see *ibid.*, 501.

8. See the speech by Gilbert Livingston (*Convention Debates*, 24 June, at note 1, above). On 24 June Robert R. Livingston also ridiculed his kinsman for using that expression.

9. “Characterized by lack of vigour or energy” (OED).

10. On 24 June news arrived in Poughkeepsie that the New Hampshire Convention had ratified the Constitution three days earlier. See Editors' Note (RCS: N.Y., 1875–77).

11. The reference is to the Council of Revision, not the Council of Appointment. See at note 7, and note 7 (above).

12. See note 10 (above).

The New York Convention Thursday 26 June 1788

Convention Debates and Proceedings, 26 June 1788

CONVENTION PROCEEDINGS. Questn. on alteration of the 4th. clause in 1 Sectn. so as to leave the time place & manner of election to State Legislatures Exclusively—See amt. proposed— [Robert R. Livingston, Notes, NHi]

* * * * *

RICHARD HARISON. Opens debate—

2 Modes—leave Genl. Legislature—2 State Legislature 2d lyable to objectn. that Legislatures might to defeat

The Const[ru]ctio[n] of resolution is that State shall appoint in 1st. instance & only reserves final right in case of neglect—particular circumstances material to State may be important Govt.—*Time*—

Shd. be alike to prevent fluctuation—members—Agrees that declaration sense of consn. proposed by Mr Jones not different from our construction of it. [Robert R. Livingston, Notes, NH]

HARISON. The constitut—has fixed the qualifications—It could not fix the time place & manner—places could not be fixed, as a place conv [i.e., convenient?] the time and manner could not be fixed—as they might be all necessary to be altered—

The next question, how shall be regulated—might be submitted to the genl. govt or to the state govermts—

only refrain f[ro]m electing Senators—a wide difference—a majority of States [necy?]

how respectg. Presidt—

The genl govt. depart fm strict principle in this

The spirit of the rule conforms to the explan[at]ion[s]—

The amendt. admits the propriety of the general govt. in case of neglect—

The genl. govt. should prescribe the time—if the States may chuse at diff. times—in cases of invasion, it necessary— [Melancton Smith, Notes, N]

JAMES DUANE. As the amendment stands, is not so comprehensive as the clause—

The Resoln. restricts the power to neglect or refusal—

a third case is invasion—

As it now stands, it extends to all cases

It is now expressed, in more general terms

—This State.—Southern District

So. Carolina

Georgia¹—

It may be wise and salutary—if so the Legislature will establish it—

The thing is impracticable—the Const. of this State, make no provision—founded in wisdom—Election Law, if in a Bill, unalterable—always suit—for people to chuse—

attempt to legislate for all the States—

No hazard, of the State Legislatures—will they not always be hazarded—

The election by majority, not practicable [Melancton Smith, Notes, N]

—◆—

DUANE. The Amendmt. not so comprehensive as the Article and makes the Ground narrower—The Article provides for every possible Case—And when in any Case the State Legislature does not provide the Genl Govt may— [McKesson's Notes, NHi]

* * * * *

SAMUEL JONES. I confine myself to the Objections—
It is said Neglect or Refusal does not take in all Cases—I say they do
If the State does not do it, it will be neglect or refusal—
But easy to add the word Inability— [McKesson's Notes, NHi]

—◆—

JONES. that words *neglect or refusal* includes every possible case whether neglect arises from incapacity or any other cause—ag[ree]s to alter mo. so as to include incapability of Legislature to make provision [Robert R. Livingston, Notes, NHi]

* * * * *

MELANCTON SMITH AND JAMES DUANE. Mr. *Smith* again moved the additional amendment proposed the preceding day; when the honorable Mr. *Duane* called on him to explain the motives which induced his proposal. [Childs, *Debates*, 89]

* * * * *

MELANCTON SMITH. Moved for the following Amendmt.

Resolved that each State by the Legislature thereof, shall from time to time be divided into as many Convenient Districts as the state shall be entitled to have Representatives in Congress; and provision shall be made that the Electors in each District may chuse a Representative by a Majority of Votes who shall be an Inhabitant of the District, and shall have been an Inhabitant thereof for the Term of One year immediately preceding the Time of his Election— [McKesson's Notes, NHi]

* * * * *

JAMES DUANE desired the Gentlemen to assign Reasons— [McKesson's Notes, NHi]

* * * * *

MELANCTON SMITH expressed his surprise that the gentleman should want such an explanation. He conceived that the amendment was founded on the fundamental principles of representative government. As the constitution stood, the whole state might be a single district for election. This would be improper. The state should be divided into as many districts as it sends representatives. The whole number of representatives might otherwise be taken from a small part of the state, and the bulk of the people therefore might not be fully represented. He

would say no more at present on the propriety of the amendment. The principle appeared to him so evident, that he hardly knew how to reason upon it, until he heard the arguments of the gentlemen in opposition. [Childs, *Debates*, 89]

—◆—
SMITH. What use in Representation unless opportunity is given to them to elect—It should be practicable for them to elect—

If that is not the Case Men may be sent by a Small part of the People—The Representative of the People should be one living among them— [McKesson's Notes, NHi]

—◆—
SMITH. Mo. founded here principle elective government—That Legislature shd. be chosen by people—which wd not be the case unless the election not only *in* district but *by* districts— [Robert R. Livingston, Notes, NHi]

* * * * *

JAMES DUANE. I will not examine the merits of the measure the gentleman recommends. If the proposed mode of election be the best, the legislature of this state will undoubtedly adopt it. But I wish the gentleman to prove that his plan will be practicable, and will succeed. By the constitution of this state, the representatives are apportioned among the counties; and it is wisely left to the people to choose whom they will, in their several counties, without any further division into districts. Sir, how do we know the proposal will be agreeable to the other states? Is every state to be compelled to adopt our ideas on all subjects? If the gentleman will reflect, I believe he will be doubtful of the propriety of these things. Will it not seem extraordinary, that any one state should presume to dictate to the union? As the constitution stands, it will be in the power of each state to regulate this important point. While the legislatures do their duty, the exercise of their discretion is sufficiently secured. Sir, this measure would carry with it a presumption, which I should be sorry to see in the acts of this state. It is laying down as a principle, that whatever may suit our interest or fancy, should be imposed upon our sister states. This does not seem to correspond with that moderation, which I hope to see in all the proceedings of this convention. [Childs, *Debates*, 89]

—◆—
DUANE. Perhaps the Measure may be wise and Salutory—The Legislature if found so, make provision—Why make Provision in the form of Governmt.

The Precedent in our Constitution as to electg by Ballot the Legislature have power to alter²—

The Time may come when these Provisions may be improper—

Will every State in the union adopt our Sentiments—Shall we make an Election Law for every State in the union—If it suits our Circumstances will it suit the other States.

If this mode of Election will best preserve Liberty can it be supposed the Legislature will not go into it—

It may operate in such a way as to be highly Inconvenient— [McKesson's Notes, NHi]



DUANE. No right make Laws other states— [Robert R. Livingston, Notes, NHi]

MELANCTON SMITH. The gentleman misunderstands me. I did not mean the amendment to operate as a law on the other states: They may use their discretion. The amendment is in the negative—The very design of it is to enable the states to act [at] their discretion, without the controul of Congress. So the gentleman's reasoning is directly against himself. If the argument had any force, it would go against proposing any amendment at all; because, says the gentleman, it would be dictating to the union. What is the object of our consultations? For my part, I do not know, unless we are to express our sentiments of the constitution, before we adopt it. It is only exercising the priviledge of freemen; and shall we be debarred from this? It is said it is left to the discretion of the states. If this were true, it would be all we contend for. But, sir, Congress can alter, as they please, any mode adopted by the states. What discretion is there here? The gentleman instances the constitution of New-York, as opposed to my argument. I believe that there are now gentlemen in this house, who were members of the convention of this state, and who were inclined for an amendment like this.³ It is to be regretted that it was not adopted. The fact is, as your constitution stands, a man may have a seat in your legislature, who is not elected by a majority of his constituents. For my part, I know of no principle that ought to be more fully established than the right of election by a majority. [Childs, *Debates*, 89–90]



SMITH. If any thing fundamental, in a Republican goverment—this is to fix the Legislature so that they cannot change themselves—

It is a principle of the celebrated Montesquieu, that the forms of elections are fundam^l⁴

It is evident, if the right of election and the exercise of that right be not established by the Const—it will be held always at the will of the

Leg—this is the same thing as holding your form of govt. at the will of others—

This govt. may be exercised entirely to take away the right—by fixing inconvt. places—this not probl. but it is almost certain Elections will be so fixed, as that the people cannot chuse by majorities—

Votes may be taken in Districts and the highest number of Votes elects—By that means a very small minority will choose—all from one part of the State—combinations to effect this may be easily formed—the experience of this State teaches this—The Constit—will not authorize confining the election to Dist—If it did the remedy wd be inadequate

1st. Obj—Every govt. ought to contain the means of its own preservation—This not true as applied—The form of govt. shd. provide for its continuance—But this power need not be lodged in the hands of those who exercise the power—it is not so in any of the States—

2d. As an Election Law could not be inserted in the Const. this power must be in the general or State govt—though an Elect[ion] Law could not be inserted principle might be—

3. Improper in the States, because they might destroy the govt—

This Idea extravagant—

The States could not effect it without a majority concur—

This improbable to happen—

If it does it will prove a majority dissatisfied to the govt. and it ought to be changed—

~~4 years necessary to effect such [affairs?]~~

they may do it by neglecting to chuse Senators or president—the Legislature bound by Oath

4. This power not safe because the State Legislatures may be interested to weaken the power of the Assembly the Repr. of the people to increase their weight

ans This supposes, the people and the Legisls. have diff. Interest—cannot happen

If this right abused, the people wd. revolt under the conduct of the State govts—

Ans. They will do it by degrees—

The time will be uniform if fixed by the genl Govt—

The Article might provide for this—But not important—as all enter upon office together—

The principle of ineligibility was established in the Convention and afterwards

The number of Sens. and represents—chosen ann[uall]y at an average 37—if not ineligible will be the fairest candidates—will generally ap[poin]t themselves—give the president & Senate influence over the Representatives—

A great proportion of Congress appointed to office—though few in number—

inconsistent with reason, that men should have a hand in appointing himself—

No provision in the State governm[en]ts., no argument—because they are numerous, and few offices of much [substn.?] [Melancton Smith, Notes for Speech, N]



SMITH. The forms of Election in a Republican Govt. is and Should be part of the Constitution—It has been said that the Constitution has fixed the Qualificat of Electors and Elected—This will go as an Explanation in part—This Amendmt. is to fix the Elections in Districts—

Members have frequently been returned & Elected by a Much less Number than a Majority of the Electors who polled— [McKesson's Notes, NHi]



SMITH. in reply.

This goes all amendments—

Legislatures as plan Stands fixed unalterable by Legislatures—Therefore this *not* being one qualification necessary it must be affixed—

Want of this provision defect in our constitution— [Robert R. Livingston, Notes, NHi]

* * * * *

JAMES DUANE. I neglected to make one observation, which I think weighty. The mode of election recommended by the gentleman must be attended with great embarrassments. His idea is, that a majority of all the votes should be necessary to return a member. I will suppose a state divided into districts; how seldom will it happen, that a majority of a district will unite their votes in favor of one man! In a neighbouring state, where they have this mode of election,⁵ I have been told that it rarely happens, that more than one half unite in a choice. The consequence is, they are obliged to make provision, by a previous election for nomination, and another election for appointment—Thus suffering the inconvenience of a double election. If the proposition was adopted, I believe we should be seldom represented—The election must be lost. The gentleman will therefore, I presume either abandon his project, or propose some remedy for the evil I have described. [Childs, *Debates*, 90]

DUANE. If a Majority of the Electors should be necessary—the Districts are large—They never will so agree as to have any Representation— [McKesson's Notes, NHi]

DUANE. Connecticut—corporation
 Masachusets— [Robert R. Livingston, Notes, NHi]

MELANCTON SMITH. I think the example, the gentleman adduces, is in my favour. The states of Massachusetts and Connecticut have regulated elections in the mode I propose:⁶ But it has never been considered inconvenient; nor have the people ever been unrepresented. I mention this to shew, that the thing has not proved impracticable in those states: If not, why should it in New-York? [Childs, *Debates*, 90]

SMITH. Every person who knows the police of the Eastern States knows it is practicable— [McKesson's Notes, NHi]

JAMES DUANE. That Proposition as drawn is not practicable—The Question is, is it proper as now formed—

The People of this State do think the restraints there contained improper—Otherwise why go to New York for Members to represent Counties— [McKesson's Notes, NHi]

MELANCTON SMITH. Does not the Gent. Argumt. amount to this— This Clause Imposes a Duty on the Legislature which they cannot perform— [McKesson's Notes, NHi]

JAMES DUANE. The Legislature certainly can take up that principle and so modify it and make Such provisions as it may operate

But this Convention cannot now make such provisions— [McKesson's Notes, NHi]

JOHN LANSING, JR. Mentions the Qualifications—It has been said That persons thus qualified cannot be refused—

There is at least Doubt whether every Elector is not entitled to Vote for the whole Number of Representatives

We think this should be amended—

We ought not to embarass the other States— [McKesson's Notes, NHi]

LANSING. Qualifications defined all having these eligible—
 doubt whether State Legislature not confined to general election—
 Leave Legislature at liberty to do as please proposes a provision that
 nothing shall prevent their dividing the State into election districts—
 [Robert R. Livingston, Notes, NHi]

* * * * *

CONVENTION PROCEEDINGS. After some further conversation,
 Mr. *Lansing* proposed the following modification of Mr. *Smith's* motion—
 “And that nothing in this constitution shall be construed to prevent
 the legislature of any state to pass laws, from time to time, to divide
 such state into as many convenient districts as the state shall be entitled
 to elect representatives for Congress; nor to prevent such legislature
 from making provision, that the electors in each district shall choose a
 citizen of the United States, who shall have been an inhabitant of the
 district, for the term of one year immediately preceding the time of his
 election, for one of the representatives of such state.” [Childs, *Debates*,
 90]

CONVENTION PROCEEDINGS. Mr Smith withdrew his Amendmt. to
 make room for Mr Lansings followg Amendmt. which is to be ad[d]ed
 to the Resolution of yesterday—

No Senator or Representative shall, during the Time for which he
 was elected [McKesson's Notes, NHi]

CONVENTION PROCEEDINGS. Smith Withdraws his motion to accept
 Lansings argt [Robert R. Livingston, Notes, NHi]

CONVENTION PROCEEDINGS. Which [i.e., Lansing's modification of
 Smith's motion] being added to the motion of Mr. *Jones*,⁷ the committee
 passed [over] the succeeding paragraphs without debate, till they came
 to the 2d clause of sect. 6. Mr. *Lansing* then proposed the following
 amendment.—“No senator or representative shall, during the time for
 which he was elected, be appointed to any office under the authority of
 the United States; and no person, holding any office under the United
 States, shall be a member of either house, during his continuance in
 office.” On which no debate took place. [Childs, *Debates*, 90]

* * * * *

JOHN LANSING, JR. It appears that this Clause was intended to prevent
 the Executive from having or obtaining an undue Influence over Mem-
 bers of the Legislature—

The Clause is ineffectual—The Executive must nominate—

The Honor of Seats—The Power in senate—The power in both Houses will be sufficient Inducemts. to Gent. to Serve—

It was also provided That no person a Represent in the Genl Govt should hold any State office—but that has been Struck out

Mr. Lansing moved the followg Amendmt.

“No Senator or Representative shall during the Time for which he was elected be appointed to any Office under the Authority of the united States, and no person holding any Office under the united States Shall be a Member of either House during his Continuance in Office”—NB. This Amendmt. made by Striking out *Civil* and the words *which shall have been created, or the Emoluments whereof shall [have] been increased during such Time.* [McKesson’s Notes, NHi]

—◆—
LANSING. Members Legislature shd be free from influence
Provision agt. acceptance office confined only to *new* offices—Guard
innefectual—

Members Legislature may be nominated to any other office—thereby
become dependant—

No difficulty in finding men willing to serve proved by serving State
Legislature—

This matter had been discussed in Convention [Robert R. Livingston,
Notes, NHi]

ALEXANDER HAMILTON. This matter was fully debated in the Con-
vention and left as it is—It will not be strenuously insisted on either
Side—

§. 8^s [McKesson’s Notes, NHi]

—◆—
HAMILTON. Desire this passed over with view to return to it—
8 Sect: power to levy taxes &c. [Robert R. Livingston, Notes, NHi]

CONVENTION PROCEEDINGS. The 7th section was also passed over, and
the 1st paragraph of sect. 8 was read; when [Childs, *Debates*, 90]

JOHN WILLIAMS spoke as follows. In the preamble, the intent of the
constitution among other things, is declared to be, “to provide for the
common defence, and promote the general welfare;” and in the clause
under consideration, the power is in express words given to Congress—
“to provide for the common defence, and general welfare.”—And in
the last paragraph of the same section, there is an express authority to
make all laws which shall be necessary and proper for carrying into

execution this power: It is therefore evident, that the legislature under this constitution may pass any law which they may think proper. It is true the 9th section restrains their power with respect to certain objects. But these restrictions are very limited, some of them improper, some unimportant, and others not easily understood. Sir, Congress have authority to lay and collect taxes, duties, imposts and excises, and to pass all laws which may be necessary and proper for carrying this power into effect. To comprehend the extent of this authority, it will be requisite to examine what is included in this power to lay and collect taxes, duties, impost[s] and excises, what is implied in the authority to pass all laws which shall be necessary and proper for carrying this power into execution, and what limitation, if any, is set to the exercise of this power by the constitution.

Sir, to detail the particulars comprehended in the general terms—taxes, duties, imposts and excises—would take up more time than would be proper at present; indeed it would be a task far beyond my ability, and to which no one can be competent, unless possessed of a mind capable of comprehending every possible source of revenue: for they extend to every possible way of raising money, whether by direct or indirect taxation. Under this clause may be imposed a poll-tax, a tax on houses and buildings, on windows and fire-places, on cattle, and on all kinds of personal property:—It extends to duties on all kinds of goods, to tonnage and poundage of vessels, to duties on written instruments, news-papers, almanacs, &c. It comprehends an excise on all kinds of liquors, spirits, wine, cyder, beer, &c. indeed on every necessary, or conveniency of life, whether of foreign or home growth or manufacture. In short we can have no conception of any way in which a government can raise money from the people, but what is included in one or other of these general terms. Every source of revenue is therefore committed to the hands of the general legislature. Not only these terms are very comprehensive, and extend to a vast number of objects, but the power to lay and collect has great latitude: It will lead to the passing of a vast number of laws, which may affect the personal rights of the citizens of the states, and put their lives in jeopardy. It will open a door to the appointment of a swarm of revenue and excise officers to prey upon the honest and industrious part of the community.

Let us enquire also into what is implied in the authority to pass all laws, which shall be necessary and proper to carry this power into execution.—It is perhaps utterly impossible fully to define this power. The authority granted in the first clause, can only be understood in its full extent, by descending to all the particular cases in which a revenue can be raised. The number and variety of these cases are so endless, that

no man hath yet been able to reckon them up. The greatest geniuses in the world have been for ages employed in the research, and when mankind had supposed the subject was exhausted, they have been astonished with the refined improvements, that have been made in modern times, and especially in the English nation, on the subject. If then the objects of this power cannot be comprehended, how is it possible to understand the extent of that power, which can pass all laws which shall be necessary and proper for carrying it into execution. A case cannot be conceived, which is not included in this power. It is well known that the subject of revenue is the most difficult and extensive in the science of government: It requires the greatest talents of a statesman, and the most numerous and exact provisions of a legislature. The command of the revenues of a state, gives the command of every thing in it. He that hath the purse, will have the sword; and they that have both, have every thing: So that Congress will have every source from which money can be drawn.

I should enlarge on this subject; but as the usual time draws near for an adjournment, I conclude with this remark, that I conceive the paragraph gives too great a power to Congress—And in order that the state governments should have some resource of revenue, and the means of support, I beg leave to move the following resolution.

“Resolved, that no excise shall be imposed on any article of the growth, or manufacture of the United States, or any of them; and that Congress do not lay direct taxes, but when the monies arising from the impost and excise are insufficient for the public exigencies; nor then, until Congress shall first have made a requisition upon the states, to assess, levy and pay their respective proportions of such requisition, agreeably to the census fixed in the said constitution, in such way and manner as the legislatures of the respective states shall judge best; and in such case, if any state shall neglect or refuse to pay its proportion, pursuant to such requisition, then Congress may assess and levy such state’s proportion, together with interest thereon, at the rate of six per cent. per annum, from the time of payment prescribed in such requisition.”⁹

Convention then adjourned. [Childs, *Debates*, 91–92]

—◆—
WILLIAMS. If there is not some Amendmt. to this Clause there is an End of the State Governments—

The Preamble Read—What Power—to lay and Collect *Taxes duties Imposts Excises*

To Make all Laws which shall be necessary & proper for carrying into Execution the foregoing Powers—

This will induce many & Burthensome Laws—and a Swarm of Officers—When the Subjects for taxation were all Exhausted—See the refinements of Modern Times—No Case can be conceived which are not included in this Power—They will have the Sole Purse—They must then have the Sword—Can a State Governmt. Exist without a Revenue—

I Submit the following Resolution—

“That no Excise shall be imposed on any Article of the Growth or Manufacture of the united States or any of them, and that Congress do not lay direct Taxes but when the Monies arising from the Impost and Excise are insufficient for the public Exigencies, nor then, until Congress shall first have made a Requisition upon the States to assess levy and pay their respective proportions of such requisition agreeably to the Census fixed in the said Constitution in such way & Manner as the Legislatures of the respective States shall judge best And in such Case if any State shall neglect or refuse to pay its Proportion pursuant to such Requisition, then Congress may assess and levy such States Proportion, together with Interest thereon at the Rate of Six per Centum per Annum from the Time of Payment prescribed in such Requisition[”]— [McKesson’s Notes, NHi]

—◆—
WILLIAMS. Exme. what included in this power—2 What power of making Laws for this purpose?

Comprehension of this tax—leads to appointment many officers—
2 power to pass Laws for this purpose—

Applies many objects—knowledge revenue very extensive—
Annihilates State government—

proposes am[endment]t no excise on own manufactures—no excise Unless Duties insufficient—no direct taxes unless both insufficient nor then till after requisition made— [Robert R. Livingston, Notes, NHi]

MELANCTON SMITH. Gives general government every source revenue— [Robert R. Livingston, Notes, NHi]

JOHN WILLIAMS. [Robert R. Livingston, Notes, NHi]

ALEXANDER HAMILTON. [Robert R. Livingston, Notes, NHi]

1. At times during the Revolution, the British occupied parts of the six southern counties of New York, South Carolina, and Georgia.

2. The manner of voting for members of the legislature, by either *viva voce* or secret ballot, was hotly debated in the convention that drafted the state constitution of 1777.

Article VI, the result of a compromise fashioned by John Jay, stated that during the Revolution voters could continue to vote by voice, but after the war voting would be by ballot. If problems arose with respect to the secret ballot, the legislature could, by a two-thirds vote of each house, restore *viva voce* voting (Thorpe, VI, 2630). The secret ballot was first used for legislative elections in New York in the election of 1787 under the provisions of the election law of 13 February 1787.

3. Eighteen members of the New York Convention, and possibly a nineteenth, had also been members of the convention that drafted and adopted the state constitution of 1777.

4. See *Spirit of Laws*, I, Book II, chapter II ("Of the Republican Government, and the Laws in relation to Democracy"), 12.

5. See note 6 (below).

6. In both Massachusetts and Connecticut, the members of the House of Representatives were elected by a majority of the freemen of the towns that they were to represent. If a majority was not obtained, a run-off election was held. In Massachusetts, state senators were elected if they received a majority of the votes of any county. If not enough senators were elected for any county, the members of the House of Representatives and the senators who had been elected would elect a number of senators to fill the vacancies in a county (Thorpe, III, 1897). In Connecticut, each voter could nominate twenty men for the twelve-member Council or upper house. A legislative committee then prepared a ticket containing the names of the twenty men who had received the most nominating votes. The committee did not list the twenty men according to the number of votes they received. Instead, the committee listed the governor and deputy governor, followed by the councillors and ex-councillors according to their seniority. The ticket was then submitted to the voters who usually took the first twelve on this list (RCS:Conn., 317).

7. Antifederalists were astonished that Federalists acquiesced, without much opposition, in this amendment, the first part of which had been proposed on 25 June by Samuel Jones. See De Witt Clinton to Charles Tillinghast, 27 June (RCS:N.Y., 1975), Cornelius C. Schoonmaker to Peter Van Gaasbeek, 25 June (VI, below), and Abraham G. Lansing to Abraham Yates, Jr., 29 June (RCS:N.Y., 1235).

8. At this point, the debate moved on to Article I, section 8, of the Constitution, concerning the enumerated powers of Congress.

9. This amendment was similar to amendments adopted by the Massachusetts Convention on 6 February 1788 and the South Carolina Convention on 23 May 1788. (See De Witt Clinton to Charles Tillinghast, 27 June, RCS:N.Y., 1975.) For the Massachusetts amendment, see CC:Vol. 4, p. 68, and for the South Carolina amendment, see CC:Vol. 6, p. 72. The Massachusetts amendments were reprinted in two New York newspapers and the *American Magazine*, while the South Carolina ones were reprinted eight times.

The New York Convention Friday 27 June 1788

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Section 8, was again read,—and

MELANCTON SMITH rose.—We are now come to a part of the system, which requires our utmost attention, and most careful investigation. It

is necessary that the powers vested in government should be precisely defined, that the people may be able to know whether it moves in the circle of the constitution. It is the more necessary in governments like the one under examination; because Congress here is to be considered as only part of a complex system. The state governments are necessary for certain local purposes; The general government for national purposes: The latter ought to rest on the former, not only in its form, but in its operations. It is therefore of the highest importance, that the line of jurisdiction should be accurately drawn: It is necessary, sir, in order to maintain harmony between the governments, and to prevent the constant interference which must either be the cause of perpetual differences, or oblige one to yield, perhaps unjustly, to the other. I conceive the system cannot operate well, unless it is so contrived, as to preserve harmony. If this be not done, in every contest, the weak must submit to the strong. The clause before us is of the greatest importance: It respects the very vital principle of government: The power is the most efficient and comprehensive that can be delegated; and seems in some measure to answer for all others. I believe it will appear evident, that money must be raised for the support of both governments: If therefore you give to one or the other, a power which may in its operation become exclusive; it is obvious, that one can exist only at the will of the other; and must ultimately be sacrificed. The powers of the general government extend to the raising of money, in all possible ways, except by duties on exports; to the laying taxes on imports, lands, buildings, and even on persons. The individual states in time will be allowed to raise no money at all: The United States will have a right to raise money from every quarter. The general government has moreover this advantage. All disputes relative to jurisdiction must be decided in a federal court.

It is a general maxim, that all governments find a use for as much money as they can raise. Indeed they have commonly demands for more: Hence it is, that all, as far as we are acquainted, are in debt. I take this to be a settled truth, that they will all spend as much as their revenue; that is, will live at least up to their income. Congress will ever exercise their powers, to levy as much money as the people can pay. They will not be restrained from direct taxes, by the consideration that necessity does not require them. If they forbear, it will be because the people cannot answer their demands. There will be no possibility of preventing the clashing of jurisdictions, unless some system of accommodation is formed. Suppose taxes are laid by both governments on the same article: It seems to me impossible, that they can operate with harmony. I have no more conception that in taxation two powers can

act together; than that two bodies can occupy the same place. They will therefore not only interfere; but they will be hostile to each other. Here are to be two lists of all kinds of officers—supervisors, assessors, constables, &c. employed in this business. It is unnecessary that I should enter into a minute detail, to prove that these complex powers cannot operate peaceably together, and without one being overpowered by the other. On one day, the continental collector calls for the tax; He seizes a horse: The next day, the state collector comes, procures a replevin and retakes the horse, to satisfy the state tax.¹ I just mention this, to shew that people will not submit to such a government, and that finally it must defeat itself.

It must appear evident, that there will be a constant jarring of claims and interests. Now will the states in this contest stand any chance of success? If they will, there is less necessity for our amendment. But, consider the superior advantages of the general government: Consider their extensive, exclusive revenues; the vast sums of money they can command, and the means they thereby possess of supporting a powerful standing force. The states, on the contrary, will not have the command of a shilling, or a soldier. The two governments will be like two men contending for a certain property: The one has no interest but that which is the subject of the controversy; while the other has money enough to carry on the law-suit for twenty years. By this clause unlimited powers in taxation are given: Another clause declares, that Congress shall have power to make all laws necessary to carry the constitution into effect. Nothing therefore is left to construction; but the powers are most express. How far the state legislatures will be able to command a revenue, every man, on viewing the subject, can determine. If he contemplates the ordinary operation of causes, he will be convinced that the powers of the confederacy will swallow up those of the members. I do not suppose that this effect will be brought about suddenly—As long as the people feel universally and strongly attached to the state governments, Congress will not be able to accomplish it: If they act prudently, their powers will operate and be increased by degrees. The tendency of taxation, tho' it be moderate, is to lessen the attachment of the citizens—If it becomes oppressive, it will certainly destroy their confidence. While the general taxes are sufficiently heavy, every attempt of the states to enhance them, will be considered as a tyrannical act, and the people will lose their respect and affection for a government, which cannot support itself, without the most grievous impositions upon them. If the constitution is accepted as it stands, I am convinced, that in seven years as much will be said against the state governments, as is now said in favour of the proposed system.

Sir, I contemplate the abolition of the state constitutions as an event fatal to the liberties of America. These liberties will not be violently wrested from the people; they will be undermined and gradually consumed. On subjects of this kind we cannot be too critical. The investigation is difficult, because we have no examples to serve as guides. The world has never seen such a government over such a country. If we consult authorities in this matter, they will declare the impracticability of governing a free people, on such an extensive plan. In a country, where a portion of the people live more than twelve hundred miles from the center, I think that one body cannot possibly legislate for the whole. Can the legislature frame a system of taxation that will operate with uniform advantages? Can they carry any system into execution? Will it not give occasion for an innumerable swarm of officers, to infest our country and consume our substance? People will be subject to impositions, which they cannot support, and of which their complaints can never reach the government.

Another idea is in my mind, which I think conclusive against a simple government for the United States. It is not possible to collect a set of representatives, who are acquainted with all parts of the continent. Can you find men in Georgia who are acquainted with the situation of New-Hampshire? who know what taxes will best suit the inhabitants; and how much they are able to bear? Can the best men make laws for a people of whom they are entirely ignorant? Sir, we have no reason to hold our state governments in contempt, or to suppose them incapable of acting wisely. I believe they have operated more beneficially than most people expected, who considered that those governments were erected in a time of war and confusion, when they were very liable to errors in their structure. It will be a matter of astonishment to all unprejudiced men hereafter, who shall reflect upon our situation, to observe to what a great degree good government has prevailed. It is true some bad laws have been passed in most of the states; but they arose more from the difficulty of the times, than from any want of honesty or wisdom. Perhaps there never was a government, which in the course of ten years did not do something to be repented of. As for Rhode-Island, I do not mean to justify her—She deserves to be condemned—If there were in the world but one example of political depravity, it would be her's: And no nation ever merited or suffered a more genuine infamy, than a wicked administration has attached to her character.² Massachusetts also has been guilty of errors: and has lately been distracted by an internal convulsion.³ Great-Britain, notwithstanding her boasted constitution, has been a perpetual scene of revolutions and civil war—Her parliaments have been abolished; her kings have been

banished and murdered. I assert that the majority of the governments in the union have operated better than any body had reason to expect: and that nothing but experience and habit is wanting, to give the state laws all the stability and wisdom necessary to make them respectable. If these things be true, I think we ought not to exchange our condition, with a hazard of losing our state constitutions. We all agree that a general government is necessary: But it ought not to go so far, as to destroy the authority of the members. We shall be unwise, to make a new experiment in so important a matter, without some known and sure grounds to go upon. The state constitutions should be the guardians of our domestic rights and interests; and should be both the support and the check of the federal government. The want of the means of raising a general revenue has been the principal cause of our difficulties. I believe no man will doubt that if our present Congress had money enough, there would be few complaints of their weakness. Requisitions have perhaps been too much condemned. What has been their actual operation[?] Let us attend to experience, and see if they are such poor, unproductive things, as is commonly supposed. If I calculate right, the requisitions for the ten years past, have amounted to thirty-six millions of dollars; of which twenty-four millions, or two thirds, have been actually paid.⁴ Does not this fact warrant a conclusion that some reliance is to be placed on this mode? Besides, will any gentleman say that the states have generally been able to collect more than two thirds of their taxes from the people? The delinquency of some states has arisen from the fluctuations of paper money, &c. Indeed it is my decided opinion, that no government in the difficult circumstances, which we have passed thro', will be able to realize more than two thirds of the taxes it imposes. I might suggest two other considerations which have weight with me—There has probably been more money called for, than was actually wanted, on the expectation of delinquencies; and it is equally probable, that in a short course of time the increasing ability of the country will render requisitions a much more efficient mode of raising a revenue. The war left the people under very great burthens, and oppressed with both public and private debts. They are now fast emerging from their difficulties. Many individuals without doubt still feel great inconveniencies; but they will find a gradual remedy. Sir, has any country which has suffered distresses like ours, exhibited within a few years, more striking marks of improvement and prosperity? How its population has grown; How its agriculture, commerce and manufactures have been extended and improved! How many forests have been cut down; How many wastes have been cleared and cultivated; How many additions have been made to the extent and

beauty of our towns and cities! I think our advancement has been rapid. In a few years, it is to be hoped, that we shall be relieved from our embarrassments; and unless new calamities come upon us, shall be flourishing and happy. Some difficulties will ever occur in the collection of taxes by any mode whatever. Some states will pay more; some less. If New-York lays a tax, will not one county or district furnish more, another less than its proportion? The same will happen to the United States, as happens in New-York, and in every other country.—Let them impose a duty equal and uniform—those districts, where there is plenty of money, will pay punctually: Those, in which money is scarce, will be in some measure delinquent. The idea that Congress ought to have unlimited powers, is entirely novel; I never heard it, till the meeting of this convention. The general government once called on the states, to invest them with the command of funds adequate to the exigencies of the union:⁵ but they did not ask to command all the resources of the states—They did not wish to have a controul over all the property of the people. If we now give them this controul, we may as well give up the state governments with it. I have no notion of setting the two powers at variance; nor would I give a farthing for a government, which could not command a farthing. On the whole, it appears to me probable, that unless some certain, specific source of revenue is reserved to the states, their governments, with their independency will be totally annihilated. [Childs, *Debates*, 92–96]

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On Article 2d. § 8th. with the Amendmt.

SMITH. The State Govts. to remain for local Purposes—The State [i.e., general] Govt. for national Purposes—

—If the line of Jurisdiction is not well fixed and ascertained there may be a conflict—If not the Liberties the peace & Harmony of the Country may be destroyed in the Conflict—

Money Necessary to the Existence of both Govts.

Give an uncontroled power to one Govt. the other must then exist at the will of the other—If a Clashing of Interests and Power the Genl. Govt. must fall a Sacrifice to the State Govts. or Vice Versa—

It will not be disputed but the Powers of the Genl Govt.

and restrained by nothing but the will of the Legislature except one single Restrict. vizt.

The Genl. Govt. has exclusive Power to raise monies by duties by Imposts

The State Govts. have concurrent jurisdictions as to

The State Govts. no exclusive Right to raise Monies

The Genl. Govt. has also this Advantage that as their Laws are Supreme and to [be] determined by their own Courts and in all Cases of Interference they

It can scarcely happen in the Cases of Concurrent Jurisdiction but there will be a clashing—

In Every Govt. there is demand for all the Monies they can raise and are generally in Debt—

The Genl Govt. will have occasion for all the money they can conveniently raise—

The State Govts. must have Money

There will therefore be direct Taxation by both Govts.

These will Interfere—They will even become hostile to each other—

There will [be] two Sets of Supervisors assessors Collectors

Two Sets of Courts to determine the Matter—

It is therefore Impossible they can subsist together

Therefore unless the Powers of Each are so defined and Settled as to prevent this Jar[r]ing of Interests the Genl. Govt. must prevail—

The unlimited Power of *Imposts* the most Important Revenue can pay their Officers—Support an Army—&ca.

The States have no Means of Revenue or Support—

The Genl. Govt. has an unlimited Power—They have express Power to make all Laws which shall be necessary and proper

If we contemplate the Com [i.e., common?] operation of Causes in producing Effects in Time the Genl. Govt. must Absorb the Others—

It cannot be done at once—But as they increase in Power the State Govts. must decrease—Affection to their State Govts. and Confidence in them must decrease—And they must become useless—And as much Pains will then be taken

Some Gentlemen contemplate this Event with Pleasure—

I contemplate it as the final destruction of the Liberties of America

There is no Instance of any Governmt. so extensive—

The Ancient Republic's were not like ours—and were in Genl. confined to small Territories—

The Roman Provinces were Govd. by Tirants—

Govermt. over any Country of great Extent must be despotic—

It may be said we have no Instance of Govt. such as we would amend this to be so extensive—

This is true—We must therefore reason on & correct this as well as we can—

Can Govt. superintend Taxation over a Territory of 1200 Miles or more

If the Genl. Govt. supplant the State Govts. can they manage the local Concerns of all—

In Monarchical States the Monarch does not attempt to detail Taxes
Suppose the Govt. pure—the Matter is impracticable—If Corrupt—
they may distress the People beyond Measure—

It is impossible to obtain a Representation adequate to Duties Taxes
and Excises—

Let us examine our Situation—If a man conceives he suffers Injury—
he is apt to attribute it to Govt.

Examine our State Govts. and our Situation when the forms were
made, and the Situation in which the War left us—Is it not astonishing
that our State Governments have worked so well—

Rhode Island is much Condemned—I condemn it too—but She
should be heard—perhaps

A[n] Insurrection in Massachussetts—How trifling compared to
other Govts.

In Britain

Nothing wanting but Time and Experience necessary as to our local
Concerns—they have proved Good

It is admitted the Genl Govt. defective and has failed in answering
these Ends of Institution—It failed for want of the Means to procure
Money—

Let us examine how this arose—

Let us consider our own Govt. and others as to requisitions—

The Govt. of the united States

Requisitions for 10 years including amount to about 36 mil-
lions—24 millions have actually been paid—

Can any Govt. count on raising the whole Tax laid—Has the State
Govts. with all their direct power collected all or more than 2 3ds

When the Govt. is properly organized the Defects will be less—

Many States have made no payments on requisitions because Con-
gress has been looking for other Sources for Money—

When the Country better Established, Requisitions be better com-
plied with—

The War left the Country distressed—The Country is now retrieving
with Celerity—Tho many Indivi[du]als are ruined yet the united States
have advanced in point of Property to a great degree—

Defects will always be found in the Collection of Taxes—The Differ-
ence will be as great as on Requisitions—

Apportion a Tax as equally as you can—where money is in Circula-
tion it will be paid—where it is Scarce there will [be] a Defalcation—

The Idea that Congress should have unlimited Powers in point of Revenue is *perfectly novel* until the meeting of the Convention—

When they were pressed in 1783 Congress made a Requisition of 8 Millions and requested an Impost⁶—

Now the[y] Require unlimited Revenue—If this must be done let us abolish our State Govts.

Without some Source of Revenue the State Govts. cannot Support their Governments or Exist— [McKesson's Notes, NHi]

SMITH. We have come to that part of the system wch. requires great attention and careful invest[igation]—

The powers with which this govt. is vested shd. be precisely defined and limited to their proper objects, as far as is consistent wt. human foresight—

Bounds shd. be set to it over wch. it shd. not pass—

This is necessary. in all govts.—but peculiarly so in the one before us— Because it is to form part of a complex plan—the State govts. are to exist for certain local purposes, the general govert. for certn. national purposes—the latter is to rest on the former—It must do so if we mean to retain in any degree the features of a federal govt.—It must do so not only for its organizn. but in some degree for its exercise—

It is therefore highly necessary that the Line of jurisdn. shd. be accurately drawn between them that there be no interfering claims or clashing jurisds.—For if this be not the case, the compl. parts of our system will not harmonize—they will not move to the same point—but will be constantly contendg. wt. each other, retarding one anothers operations & counteracting each others views, until one or the other is destroyed and perhaps the Liberties or at best the peace & happs. of the Country will fall in the Conflict—

In nothing is it more necessary to mark that Line, than in matters of Revenue—

Money is the vital principle of government—with[ou]t [it] no govt. can exist—

To raise it, is the most delicate thing in govt.—the feelings of the people are sooner touched in the exercise of it—oppression is most com[mo]nly exercised in this way—

Both govts. must raise money—or they cannot exist—both therefore must have the power to raise it, or else, the one will exist at the will of the other—

If it is possible, each shd. be conf[ine]d to certain objts.—this will prevent clashing of Laws—contention of power, and perpetual interferences of officers &c—This ought to be in that govt., if its aim is to

maintn. the system in its complex form and not to redirect it to a simple one—how far it departs from this shall be the subject of our future enquiry.—

I shall not expatiate on the extent of the powers given by this clause—or trace its operation, in all its [— —] of extent—in all its windings & [turns?].

It is sufft. to say, what will not I presume be denied, that it comprehends every mode of raising money, whether by direct or indirect taxes under whatever name described—and that the Legisl. are limittd. in its exercise by no restrict. other than their own discr. wh. discr. ought to be guided by a regd. to the general welfare—

The next clause restricts the power, not to lay a tax or duty on exports—

Here then is a power in the genl. govt. over every k[in]d of Revenue—in a followg. Sect—the indivd. States are prohibd. from raisg. a Revn. from imposts, or fm. Tonnadge—The state of the matter between the govts. then, stands thus—The genl. govt. has a power to raise a revenue in every way, and an exclusive right by impost & Tonnage—the indivd. States have no exclusive right to raise money in any way—but a concurrent right to raise it by Taxes excises & duties—

The genl. govt. has moreover the superior advantages—that in all cases of interference—their Laws are supreme—their courts are to determine—

Let us enquire then whether it can fail, that the State govts. must be supplanted—

It is to be recoll'd. that the power of laying direct taxes is co-ordinate—there will certainly be a contest between them, unless the demands of each shd. be limited within the conven[ien]ce of the people to pay, or an agreement shd. take place to divide these [resources?].—

This position is generally true that the wants of every govt. will be equal to their ~~means of getting it~~ Revenues—they generally exceed it—and lead them to run in debt—they will not theref[o]re be prevented from interfg. because they will not want it—It is not likely they will accomodt. on that point—they will interfere—Two powers of taxation acting with[ou]t limit. on the same object—They must interfere—they must act in opp.—become hostile & finally the weaker submit to the Stronger—trace this power in its operation, this will appr. more clear—two sets of officers to lay & collect—of courts to try &c—On the one day the collector of Congress calls, the next of the State—The one seizes the other replevins—the Courts of Law called upon—Like two men having a comml. Interest in one plantation—unless they agree to

divide, or to improve—it by turns there wd. be eternal jarring between them—

In that jarring of Int. wh. wd. prevail—the genl. govt. certainly would—this wd. be armed at all points, while the State defenceless—

The genl. govt. will have a certain & very productive revenue from impost & post office—

The State govts. no exclusive source at all—Every source from which they can raise money will be those with which there will be a contest in the gener Govt—they must yield in the conflict—I have hitherto gone on the supp[ositio]n that the one govt. will have no constitut control over other.—but this is not the Case—The Law of the union supreme—when disputes arise about jurisn. the courts of the union to decide—

According to the common course of things, if we contempl the opert. of causes to produce effects—the genl. govt. will prevail—

It will do it by slow & imperceptible degrees—

The power over the revenues, will move gradually if they move prudently

It will act with caution—but the effect will not be the less certain—

The people for a while will retain their attachment for the State govts—The genl. governt. must consult their inclins—But the attachment of the people will lessen, as the State govts. lessen—and when it is perc[eive]d that to provide for their existence, involves them in diffs.—exposes them to taxes &c—they will turn from them with disgust—It will become a mere empty form—

No one will wish an office in it—the people will wish it demolished—and if that govt. if it is adopted w[i]th[ou]t amends. and succeeds in its exercise—will be followed by this event—

Some, I know consider such an event as a desireable one—For my part, I contemplate it with apprehn—that it will be the period of our Liberties—

I know that we are very liable to err in theoretical reasonings on political questions—when we have [no] Experience is for a guide—On this subject we have no example—no Republic that we know off. of the extent of this Country.—The ancient ones, of small extent compared—variant in their forms—The Roman territories extensive, but their form of govt. did not extend—

Modern Republics not like ours—less extensive—

If we consult authorities, they are again[st] the practicability—generally agree that a Republic must be of moderate extent—

It may be said these auths. apply to democratic republics not to Represent[ative]

But the best authorities, say an extensive country is capable of being gove[r]ned only by despotism—

It may be said, we have no examples in favr. of a confedera. on the plan I contd. for—True, we must therefore reason from the nature of [— — —]—from our own experience, and that of others so far as they will apply—To suppose that one Legislature, from a Country seperated at the distance of 1200 Miles—can form a system to collect taxes and excises wt. propriety & [energy?] over such an extent—seems equally repugnant to the reason of the thing and the exper. of mankind on the Subject—

To effect it they must have a vast number of Officers. & [tribunals?] subord. to each other—

The expence must be enormous—

The burden intolerable—

And the govt. wd. be unable to superintend the bus[in]ess—Supposg the Legislr. to have the best views—It is impossible they shd. be acquainted suff. to legislate for the local concerns—

Very few such can be fou[n]d—to do it, a man must have devoted consid. part of his Life to travel & study—

All [Most?] govts. of great extent, subdivided for the purpose of laying taxes—

Our own experience to be consulted—

The State governments have ansd. well the purposes of their institution—

Considering our circumsts—emerged from a war—from a state in which all distinctions have been leveled—and the infancy of our govts.—want of experience & habit—they have succeeded, beyond expectation—The general govert. has failed—and one of its principle defects, is the want of means to procure money—but is it necessary to give unlimited power on this head—to justify this requis[ition]s are reprobated in every case—and represd. as utterly insufft. to rely upon in any degree—Our own experience does not justify the conclusion—the experience of other Countries contradict it—Holland has commanded monies as plentifully as any nation—

Our own experience does not—abt. 10 years since Requiss. were first made—In that time, if my informn. is right—abt. 36 m[illio]n has been rqd. incl. the bounties pd. to men—abt. 24 mi[llion] has been pd.—We ought to make allowances for def[iciencies] arisg from distresses of the War—

from dependance of States on other Sources as impost—

As much def[iciencies] in State taxes, as in requis[ition]s—Always will be deficienc[i]es in taxes—probably more so if the gen. govt. lays taxes than in requis[ition]s—

Defi[ciencie]s in taxes in all govts—
 Congress, from a series of experience supposed a limited Revenue
 suffic[ien]t

The system of 1783—

The Idea of unlimited novel—

on the whole the position obvious that if we retain the State govts.
 we must divide revenue— [Melancton Smith, Notes for Speech, N]



SMITH. Powers ought to be precisely defined—

Peculiarly so in a government of the particular kind.

Ought to rest as well for operation as organisation—

HARMONY.

Money necessary to existence of both—

Interference or clashing of power—

And one must fall a sacrifice to the other.

No limitation to discretion of legislature—

State Governments & G Government have concurrent jurisdiction in
 all cases but *imposts* *Tonage* *Poundage*—

In all cases of intereference as the laws of the U S. are supreme they
 must prevail—

Every government finds use for all the money it can raise—

Conveniency of the People will suffer them to pay—

Two sets of Supervisors—&c

Two sets of Courts—

Plantation—

Which side will prevail—

Exclusive possession of ~~force~~—*impost*
force

So long as attachment lasts the state Gov. cannot be destroyed—

No example of a republican Government of similar extent—

Same authorities declare that governments over very great extent
 must be despotic—

Provide a system which could superintend taxation throughout this
 extensive Country—

Turkish dominions

Proper representation

Astonishing that we have done so well—

G. U Netherlands—

Can any government calculate upon ~~laying~~ collecting all their
 taxes—?

Requisitions—

Improvement of the Country

Diversity between the Counties— [Alexander Hamilton, Notes, DLC]

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On Taxes & the Amendmt. proposed by Mr. Williams.

SMITH. 1. The genl. Govt. should rest in some Degree not only for it's Foundation but Jurisdiction Operation upon the State Govts.

Their Powers should be clearly defined otherwise the two Jurisdiccions will clash—

2. The Power to raise Money necessary to be committed to Govt. & one of the most delicate Nature—

Must be committed to both Govts.—& each should have their distinct Objects to exercise it upon—

3. The Constitution gives the genl. Power to Congress.—the sole Restriction being upon Exports—

have exclusive Powers as to Imposts Tonnage & Poundage & the Post Office—

State Govts. have no exclusive Powers—but concurrent Powers

4. Genl. Govt. has the Judicial Power of determining—

5. This must destroy the State Govts. wh. cannot subsist without Money—

6. All Govts. spend more than their Income—& the Genl. Govt. will have Use for all the Money they can raise—

7. direct Taxation will be exercised by both Govts.—must interfere—will have two Sets of Officers—& of Courts—one Set must yield—

Instance of the Plantation—to illustrate the Interference

Genl. Govt. must prevail—as the State Govts. have no exclusive Object of Taxation—If they contend they must contend without the Means of supporting the Contention, like going to Law in *Formâ Pauperis*⁷—

The State Govts. will be gradually abolished—the very Taxes of the State Govts. will destroy them—it probably will become fashionable to decry the State Govts. *as useless*—with as much Zeal as now used to shew that the Con. is perfect and like a System framed in Heaven & given to us by express Revelation—

Ancient Republics not similar to our own—& this Form of Govt. cannot subsist in extensive Countries—Writers say that Despotism only can subsist in great very extensive Regions—Legislation cannot be exercised over our Country—People will be oppressed without the Possibility of Redress—& it will be impossible for the Legislature to go thro' the Multiplicity of Business—*Turkey*—this Power leads to the Ruin & Destruction of the People—

8. Cannot have a Representation equal in sufficiently informed to know the Circumstances of the various Parts—State Govts. have answered well—all Circumstances considered.—Some have indeed acted ill such as Rhode Island—but what Govt. has not acted ill.—No Need

to change our local Govts. but the Genl. Govt. must be altered the only Question is as to what Extent—The Want of Money is the great Evil—if that had been given the present Govt. might have gone on without Complaint—Even Requisitions have answered in a great Measure—perhaps as much has been collected as would have been by Taxation—they will be more operative hereafter.—The Language held in Congress has prevented the Operation of Requisitions—they are impeded by the domestic Debts of the States—Country improving & advancing in Value since the War, & will be better able to pay—Taxes & Requisitions will both be unequal in their Operation—& depends upon the relative Quantity of Money—If This Power is exercised the Union will be dissolved—the Idea of unlimited Power of Taxation is novel—Requisitions failed, then the Impost was proposed—If all Sources of Revenue are now given the State Govts. had better be destroyed because they will otherwise be at War.— [Richard Harison, Notes, DLC]

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SMITH. Explains the Principles on which the am[endment] is founded [Robert Yates, Notes, DLC]

JOHN WILLIAMS. Yesterday I had the honor of laying before the committee objections to the clause under consideration, which, I flatter myself, were forcible:—They were however treated by the gentlemen on the other side, as general observations, and unimportant in their nature. It is not necessary, nor indeed would it consist with delicacy, to give my opinion as to what cause their silence is imputable: Let them now step forward, and refute the objections which have been stated by an honorable gentleman from Dutchess [Melancton Smith], who spoke last, and those which I expect will be alledged by gentlemen more capable than myself: By gentlemen who are able to advance arguments which require the exertion of their own great abilities to overcome. In the mean time, I request the indulgence of the committee, while I make a few recapitulatory and supplementary remarks.

Sir, I yesterday expressed my fears that this clause would tend to annihilate the state governments. I also observed, that the powers granted by it were indefinite, since the Congress are authorised to provide for the common defence and general welfare, and to pass all laws necessary for the attainment of those important objects.—The legislature is the highest power in a government: whatever they judge necessary for the proper administration of the powers lodged in them, they may execute without any check or impediment. Now if the Congress should judge it a proper provision for the common defence and general welfare, that the state governments should be essentially destroyed,

what, in the name of common sense, will prevent them? Are they not constitutionally authorised to pass such laws? Are not the terms—*common defence and general welfare*—indefinite, undefinable terms? What checks have the state governments against such encroachments? Why, they appoint the senators once in six years: so do the electors of Germany appoint their emperor; and what restraint have they against tyranny in their head? Do they rely on any thing but arms—the ultima ratio? And to this most undesirable point must the states recur in order to secure their rights. But have they the means necessary for the purpose? Are they not deprived of the command of the purse and the sword of their citizens? Is not the power, both over taxation and the militia, wrested from their hands by this constitution, and bestowed upon the general government? Yes, Sir, it is—But it may be said (I expect to be answered) that the states have concurrent jurisdiction with Congress, as to taxation.—I answer that the constitution does not say so: It is a mere opinion, a mere construction—a thing of too much uncertainty, to risk the rights of the states upon—which I have heard with peculiar pleasure, an honorable gentleman from New-York [James Duane], acknowledge to be of great utility to the people. The constitution grants the power of taxation to Congress, but is silent with regard to this power in the states.—If it is inferred from this, that it is not taken away from the states; we may Sir, with equal justice, deduce from the positive establishment of the trial by jury in criminal cases, that it is annihilated in civil. Ingenious men may assign ingenious reasons for opposite constructions of the same clause. They may heap refinement upon refinement and subtilty upon subtilty, until they construe away every republican principle, every right sacred and dear to man. I am, Sir, for certainty in the establishment of a constitution, which is not only to operate upon us, but upon millions yet unborn. I would wish that little or no latitude might be left to the sophistical constructions of men, who may be interested in betraying the rights of the people, and elevating themselves upon the ruins of liberty. Sir, it is an object of infinitely too much importance to be committed to the sport of caprice, and the construction of interested men. If we adopt this constitution, it is impossible, absolutely impossible to know what we give up, and what we retain: I wish that this may as far forth as possible be ascertained; and for this purpose, it is absolutely necessary that this clause should be amended. Suppose, however, that the states have concurrent jurisdiction with Congress in taxation: It is evident, as the laws of Congress are the supreme laws of the land, that their taxes, whenever they interfere with the taxes laid by the states, must and will claim a priority as to the collection: In fact, that they may, in order to pass the

laws necessary for the end, abolish the state taxes; and that they may constitutionally monopolize every source of revenue, and thus indirectly overturn the state governments, for how can the latter exist without revenue? How can they exist, I say, when they cannot raise one sixpence for their support, without the sovereign will and pleasure of Congress. Let us suppose, however, that both governments have and exercise the right of taxation—will there not be a struggle between them continually? Will there not be jealousies, contentions and animosities? Every man that knows human nature will answer in the affirmative. Is this then a desirable thing? Will it promote the public good—the great end of all government? Sir, the questions admit of easy answers. This must evidently be the result of two taxing powers—either that the people are doubly taxed, or that the state governments are destroyed: Both will be pernicious. There must necessarily be a double set of revenue officers if the first happens, which will be an enormous expence. I know, Sir, that these ideas will be considered by some as bugbears: But, Sir, if we reason from the practice of all governments, we must acknowledge at least the probability of the thing. In England, for instance, the people are not only oppressed with a variety of other heavy taxes; but, if my information is right, absolutely pay taxes for births, marriages and deaths—for the light of Heaven,⁸ and even for paying their debts. What reason have we to suppose that our rulers will be more sympathetic, and heap lighter burthens upon their constituents than the rulers of other countries? If crossing the Atlantic can make men virtuous and just, I acknowledge that they will be forever good and excellent rulers—But otherwise, I must consider them as I do the magistrates of all other countries. Sir, a capitation is an oppressive species of tax. This may be laid by the general government.—Where an equality in property exists, it is a just and good tax, it is a tax easy to assess, and on this account eligible; but where a great disparity of fortune exists, as in this state, I insist upon it, that it is a most unjust, unequal, and ruinous tax. It is heaping all the support of the government upon the poor—It is making them beasts of burthen to the rich; and it is probable it will be laid, if not stifled in the womb; Because I think it almost morally certain, that this new government will be administered by the wealthy. Will they not be interested in the establishment of a tax, that will cause them to pay no more, for the defraying the public expenditures, than the poorest man in America? The great Montesquieu says, that a poll-tax upon the person is indicative of despotism; and that a tax upon property is congenial with the spirit of a free government.⁹ These, sir, are a few of the many reasons, that render the clause defective in my mind. I might here mention the

dangers to freedom from an excise: but I forbear—I ought not to engross the attention of the committee, when it can be more usefully improved by gentlemen of more abilities than myself; gentlemen, who, I trust, will paint in the clearest colours the impropriety and danger of this, as well as they have done of the other paragraphs. Sir, as I remarked before, if this power is given to the general government, without some such amendment as I proposed, it will annihilate all the powers of the state governments. There cannot be a greater solecism in politics, than to talk of power in government, without the command of any revenue: It is as absurd as to talk of an animal without blood, or of subsistence without food. [Childs, *Debates*, 96–98]

—◆—
WILLIAMS. A few Supplementary Remarks—

The Legislature the highest Power in Governmt.

If Congress should think it for the *Common Defence & Genl Welfare* To destroy the State Govts. what is to controul them—

I

If they should have recourse to Arms—they have not the means—they have no Money—The Militia not

It is mere construction that in some Instances the States have concurrent jurisdiction as to Taxes—

We should have certainty in a Constitution to operate

I[t] should not be left to caprice and the Constructions of

As the Constitution now is it is impossible to know

Suppose they have concurrent Juris

yet the Laws of Genl Govt. are Supreme & may & will controul the others where they interfere—

Suppose both lay Taxes will not be jar[r]ing Interests—can this be Safe—Either the People must be doubly taxed—or the State Govts. destroyed—

In England—they pay Taxes for the Light of Heaven & even for the paymt. of their Debts—Will our Rulers be more merciful—

A Capitation Tax where their a great Disparity of Fortune is unjust—

And making the Poor Servants to the Rich—

A Poll Tax a mark of Despotism—a Tax on Property [McKesson's Notes, NHi]

—◆—
WILLIAMS. fears the Annihilation of the State Govts. and thinks the Powers too indefinite—Congress may pass Laws to destroy the State Govts. under their genl. Authority to provide for the genl. Welfare—concurrent Powers not expressed in the Constitution—too important

to be trusted to Construction—wishes no Latitude left to interested Persons—if the Constitution is adopted it will not be known what is given up what is retained—If there is a concurrent Jurisdiction the Laws of Congress must be preferred—people must be doubly taxed or the States destroyed—In England Taxes very heavy, here may not be lighter—Poll taxes may be laid—in this State would be very unequal— & the Excise dangerous. [Richard Harison, Notes, DLC]

—◆—
WILLIAMS. Electors Germany

Sophistical Constructions of men who may be interested in betraying the liberties of the people & erecting themselves on the liberties of the people—

—
Either that the people will be doubly taxed—or state governments destroyed—

Engl: marriages & deaths—light— [Alexander Hamilton, Notes, DLC]

* * * * *

ROBERT R. LIVINGSTON. Mr. Chairman, I shall readily agree with the honorable member from Dutchess [Melancton Smith], that no government can exist without revenues; that we ought to avoid a consolidation of the states; and that the extent of our country will not admit of a representation upon principles, in any great degree, democratic. These concessions are entirely indifferent to the point of dispute. But, Sir, we will examine the amendment particularly, and adduce only such principles, as immediately apply to it.

The first proposition in the amendment is, that no excise shall be laid on the manufactures of the United States. The second, that a requisition shall precede the imposition of a direct tax. The object of the first is to prevent our infant manufactures from being over-burthened. Sir, if the manufactures of this country were always to be in a state of infancy, if the amendment were only a temporary expedient, the provision might consist with good policy: but, at a future day, an enlarged population will render us a manufacturing people: The imposts will then necessarily lessen; and the public wants will call for new sources of revenue: These sources will be multiplied with the increase of our wealth; and necessity as well as policy will induce us to improve them. We may naturally suppose that wines, brandy, spirits, malt liquors, &c. will be among the first subjects of excise—These are proper objects of taxation, not only as they will be very productive, but as charges on them will be favorable to the morals of the citizens. It should be considered, that the burthens of government will be supported by the

United States. They are to pay the interest of loans—They are to maintain the army and navy, and the most expensive civil establishment. If the individual states had any concern in these capital expences, it would be proper that they should command the means of defraying them. But if you impose upon the union all the burthens, and take from them a principal resource, what will they do when the imposts diminish, and the expences of government increase? Why, they must have recourse to direct taxes, that is, taxes on land, and specific duties. Will this be a mode of raising money, the most agreeable and satisfactory to the people? The gentlemen seem to calculate only from present appearances—They would insert in the constitution a clause which in time may deprive the United States of a fruitful and indispensable branch of revenue. I presume, Sir, that on deliberate reflexion, they will see the impropriety of this part of the amendment.

The second part is of the greatest importance—Its object is to prevent Congress from laying direct taxes in any of the states, till they have previously made requisitions. Let us examine whether this measure will be compatible with sound policy—Let us reason from experience. We have seen something of requisitions—Enough one would suppose to make us exceedingly suspicious of them. We all know how they have hitherto operated. There are no arguments so forcible as those drawn from facts within our own knowledge. We may form as many conjectures and hypotheses as we please; but shall ever recur at last to experience as a sure guide. The gentlemen will, without doubt, allow that the United States will be subject to the same kind of expenses, and will have the same demand for money as other nations. There are no governments, that have not been obliged to levy direct taxes, and even procure loans, to answer the public wants—There are no governments which have not, in certain emergencies, been compelled to call for all the capital resources of the country. This may be the situation of the United States—We hope not in our day—but we must not presume it will never happen. Indeed the motion itself is made upon the contemplation of this event: We conclude therefore, that the gentleman [John Williams] who brought it forward, is convinced that the necessities of government will call for more money than external and indirect taxation can produce. Our business then is to consider the mode recommended by the gentleman, and see whether it can possibly furnish supplies adequate to the exigencies of government. He says, let requisitions precede coercion—Sir, what are these requisitions? What are these pompous petitions for public charity, which have made so much noise, and brought so little cash into the treasury? Have we not sported

with the bubble long enough to discover its emptiness? What have requisitions done? Have they paid off our foreign and domestic debts? Have they supported our civil and small military establishments? The gentleman declares that a great sum has been paid—He includes the bounties given to the soldiers. Were not these obtained by coercion on individuals? Let him deduct these bounties, and he will find the amount actually paid to be extremely small. We know that the states which have paid most, have not fully complied with the requisitions: Some have contributed little, and some nothing. The gentleman also says that delinquencies have been occasioned by the distresses of the war. Facts prove the contrary. New-Hampshire has hardly felt the calamities of the war; and yet that state has paid little or nothing to the treasury. These circumstances shew that the motives for compliance, which during the contest were as strong as they could be in any possible situation, have never been sufficient to produce any considerable exertions. Necessity of circumstances, which operates with almost a physical energy, alone procured any tolerable supplies. Thus the state of New-York, which was continually the seat of war, was more punctual than the other states. The neighboring states afforded something, apparently in proportion to their sense of danger. When the enemy appeared in any state, we find them making efforts, and wearing at once a very federal complexion. If we look at the accounts of South-Carolina, we shall find that they are credited for supplies furnished in their own state, and furnished only while the enemy were in the midst of them.¹⁰

I imagine, Sir, that indirect taxes will be generally sufficient in time of peace. But a constitution should be calculated for all possible circumstances; for the most critical and dangerous conjunctures. Let us suppose a sudden emergency, in which the ordinary resources are entirely inadequate to the public wants, and see what difficulties present themselves, on the gentleman's plan. First, a requisition is to go out to all the states. It is by no means probable that half their legislatures will be in session; perhaps none of them: In the next place they must be convened solely to consider the requisition: When assembled, some may agree to it, some may totally refuse, others may be dilatory, and contrive plausible excuses for delay. This is an exact picture of the proceedings on this subject, which have taken place for a number of years. While these complicated and lingering operations are going on, the crisis may be passed, and the union may be thrown into embarrassment, or involved in ruin. But immediately on refusal, the amendment proposes compulsion: This supposes that a compleat establishment of executive officers must be constantly maintained; and that they

will have firmness enough to oppose and set aside the law of the state. Can it be imagined by any rational man, that the legislature of a state, which has solemnly declared that it will not grant a requisition, will suffer a tax for the same to be immediately levied on its citizens? We are then brought to this dilemma—Either the collectors will not be so hardy as to disregard the laws of the states, or an internal war will take place. But, on either of these events, what becomes of the requisition and the tax? Sir, is there a people under Heaven, who countenanced and emboldened by the voice of their state legislatures, will ever pay a farthing of such a tax? They will resist it, as they would a foreign tribute, or the invasion of an enemy. Under such circumstances, will Congress be able to borrow? We all know what has been the difficulty of procuring loans: We are sensible that foreign loans could not have been procured at all, had not the lenders been greatly interested in the success of the revolution—Besides they undoubtedly expected such a change in our government, as would enable the United States to provide efficient funds. Now we are forming a constitution for ages, which will forever preclude the establishment of any certain funds. What hopes have we of borrowing, unless we have something to pledge for repayment? And the avails of direct taxes, are the only positive fund which can be pledged. I presume the impost and excise will not be more than sufficient to fund the debts we now owe. If future wars should lead us into extraordinary expences, it will be necessary not only to lay direct taxes, but to procure new loans to support those expences.

Sir, if these reflexions should have little weight with other states, they ought certainly to influence us, as we are a navigating state, and from our local situation shall be the first to suffer. This state will probably be the theatre of war. Gentlemen should remember that for a time we were compelled to bear almost the whole weight of the last war. If we form this constitution so as to take away from the union the means of protecting us, we must, in a future war, either be ruined by the enemy, or ruined by our exertions to protect ourselves. If the gentlemen acknowledge that the necessities I have described may exist, they should be willing to give Congress the fullest power to provide for them.

But the point, on which the gentlemen appear to dwell with most attention and concern, is the jurisdiction of the united and individual states, in taxation. They say a concurrent jurisdiction cannot exist; and that the two powers will clash, and one or the other must be overpowered. Their arguments are considerably plausible: But if we investigate this matter properly, we shall see that the dangers they apprehend are merely ideal. Their fears originate in a supposed corruption of Congress—For if the state governments are valuable, and necessary to the

system, it cannot be imagined, that the representatives of the people, while they have a single principle of honesty, will consent to abolish them. If I proceeded here to prove the improbability of corruption, I should only repeat arguments, which the committee have already heard most clearly and copiously detailed. The fact is, that in our present state of society, and under the operation of this constitution, interest and integrity will be connected by the closest ties. Interest will form a check which nothing can overcome. On interest, sir, we rest our principal hopes of safety. Your state government has the unlimited power over the purse and the sword—Why do you not fear that your rulers will raise armies, to oppress and enslave the citizens? Clearly because you feel a confidence in the men you elect; and that confidence is founded on the conviction you have, that tyranny is totally inconsistent with their interest. You will give up to your state legislature every thing dear and valuable: but you will give no power to Congress, because it may be abused—You will give them no revenues, because the public treasures may be squandered—But do you not see here a capital check? Congress are to publish, from time to time, an account of their receipts and expenditures. These may be compared together; and if the former, year after year, exceed the latter, the corruption will be detected, and the people may use the constitutional mode of redress. The gentleman [Melancton Smith] admits that corruption will not take place immediately: Its operations can only be conducted by a long series and a steady system of measures. These measures will be easily defeated, even if the people are unapprized of them. They will be defeated by that continual change of members, which naturally takes place in free governments, arising from the disaffection and inconstancy of the people. A changeable assembly will be entirely incapable of conducting a system of mischief: They will meet with obstacles and embarrassments on every side.

It is observed that, if the general government are disposed, they can levy taxes exclusively. But, sir, they have not an exclusive right, except in a few specific cases. Their right is only concurrent. Let us see if the taxes will be exclusive in their operation. Whatever the gentleman may conjecture, I think it hardly probable, that when a state has laid a large duty upon a particular article, the Congress will be so unwise, as to impose another upon the same, unless in extraordinary emergencies. There are certain capital subjects of taxation, which both the general and state governments must improve. But it is remarked, that two taxes cannot operate together, without confusion. Sir, experience has proved the contrary. We have state taxes, county taxes, and corporation taxes. How do these operate together? It is true, that in some places they are

collected by the same man; and probably also the federal and state taxes will be. But this is not material.—It is the taxes, not the collectors, that are to contend; and if the taxes are incompatible with each other, a single collector, acting in different capacities, must go thro' the same ceremony of seizure, replevin, &c. which the gentleman [Melancton Smith] has so humourously described.¹¹ If the state collector gets the horse first, I suppose he will have the first satisfaction—and so the federal collector. Of what importance is it, whether a man pays forty shillings to one, or twenty shillings each to two officers? I have never learned that there has been any clashing or confusion in the collection of our taxes. It is to be supposed, that we have resources sufficient for the support of both the general and state governments: If this be not true, we may as well discard the system altogether, and either dissolve our union, or form a simple consolidated government. But we presume very justly that the system will find ample resources for its support, as it stands. If this be acknowledged, I see no difficulty in the matter. The people have so much to pay: If they can afford this, if it be ready for the proper officers, what should occasion a quarrel between them? As for the gentleman's principle—that every government will raise more money than it can use;—I confess, I do not understand it.

It appears to me, that the people cannot be very anxious about the particular channel, thro' which their money flows into the federal treasury. They have such and such taxes to pay: Can it be a matter of concern to them, whether they are levied by a law of their state, or by a law of Congress? If they have any preference, one would suppose it must be of the latter mode; for that will be the least expensive.

In this argument, sir, I have endeavored to confine myself to the true point of dispute; and have taken notice of those observations only, which appeared to me to be applicable. I beg the committee to keep in mind, as an important idea, that the accounts of the general government are, from time to time, to be submitted to the public inspection. [Childs, *Debates*, 98–103]



R. R. LIVINGSTON. This Clause has taken up more Time and been more considered by Conventions (Who have adopted this Constitution) than most others—

I Agree that our State Govts. will work better—That a Consolidation of the States would be proper—

The Amendmt. two parts—1st

2d.

It should be considered that at a future day our principal Resource will [be] duties and Excise on Manufactures—

Ex[empli] gr[atia] [i.e., e.g.] Excises on Wine, Brandy, Ale, Malt Liquors &c manufactured among us—

The Genl. Govt. is to pay your Taxes, Debts, Troops, Expences abroad, and foreign Treaties—The State Govts. cannot do these—Excise on Manufactures the great Revenue in most Countries—

2d Part vizt.

This should be viewed in three points of view—

1st. Many Gent calculate the Expences of the Genl Govt as it is at present and Calculate the present Imposts—

There is no Govt. which has [not] been compelled to contract Debts make heavy Loans &ca. and many times to call in and Coin All the plate—

The Amendmt. Supposes that *Necessities may Exist*—

Let us see whether the Remedy is sufficient if they should *Exist*

Have requisitions succeeded—

Deduct the Bounties to the Soldiers which was a matter of Coercion, and See what they amount to—

The Gent says Peace will enable us to Comply—

Answer New Hampshire was principally clear of the War has paid nothing—The States at a distance from the War paid little or nothing—

New York and the States near the Scene of War (because they were Interested) paid or advanced in part—

Nothing but a Sudden Emergency will Induce Congress to raise Money—Can Requisitions answer in such Cases—Will the States comply unless they know and like the Cause of the War—

The Amendmt. Declares an Organization of Collectors and other Necessary Officers—Will they have power to collect

In War—No immediate Reliance on Taxation—It is usual to Borrow to pledge a direct Revenue arising from Specific Tax—

The Imposts will not be more than Sufficient to pay the Debt we already owe—And there will [be] no fund to Support a War—

The Navigating States in Genl. and this State in particular Are peculiarly interested to Strengthen the Hands of the Union—

Otherwise this State may again be reduced to Support a War alone—

2d. The Interference of Congress with the Rights of the State—And that Congress can destroy the Rights of the State—

If the State Govts. are necessary to the Happiness of the People—to Suppose them to be injured is to Suppose Corruption—

Can this Govt. lead to Corruption—It is constituted of Representatives elected by the People every two years—It is constituted of a Senate elected by the State Legislatures—And by a President elected

Are not these sufficient Checks—

Have not our State Govts. all these powers—have not we sufficient

What objects can the Genl Govt. have in View

to Amass Money—they cannot do it—

They must annually publish their Expenditures—if their Revenue should be Sufficient would the people pay direct Taxes without Murmuring—would not the people take the Alarm, and Change their rulers—

It is said “It will be an object to destroy the State Govts.” Why if they have sufficient Power why destroy the State Govts. more than their own officers—

It is said that two taxes will interfere—Why—Will the union Tax articles which the State has taxed—If both can be paid they will—If not they will pay the State Tax—State Tax and County Tax do now exist every day—and with[out] any Inconvenience—true they are coll[ect]ed

The Resources must be Adequate to a State Govt. and a genl Governmt. This admitted by Our present Business—If the people are able to pay both they must—

3d. As it respects the Citizens Individually—

They are very little Interested—If they must Support the union and State Govt. it is of little Moment whether they pay to one Collector or to two

The Collector who seizes the Horse first will hold him until paid and then deliver the Horse to the other—

The Citizen Interested to preserve the State Govt. and Interested in preserving the union—

The Citizens of those States who may be the Seat of War are very particularly Interested—

I have confined myself immediately to the Objects in Debate—
[McKesson’s Notes, NHi]



R. R. LIVINGSTON. This power important—

The remarks, made pertinent—agreed that we ought to avoid a consolidation—as Repest. on this plan impracticable—

If excise limited, to the present hour proper—but contemplating future kinds—

But Manufactures will increase—Wine—Brandy—Malt Spirits—
excise necesy. to morality—

It may be said, this left with the State—

The State govts. will have little to provide—the general Govt. to provide [for gen?]-—

If we mean to prevent direct taxes—we ought to give

consd. 3 L [i.e., Levels?]

1. As it relates to general govts—

2d. As it relates to State govermts

3d. to the Citizens—

As to the first—contemplated w^t regard to prest. condn.—

No govt but has been obliged, to tax, borrow and plate—may be our situation—

The motion recognizes such necessity—

Is the mode proposed, is it adequate or not—what is reqt. [i.e., requisition]—no State has complied—

Bounties were they obtd. by requ.—could not have been obt—

The State that has pd. most has pd—

Some States have pd. nothg.

Newhampshire had pd. Nothing—

compliance has proceedd—

N York in war has pd during War—pd in peace—

States at distance pd. Nothing—

South Carolina pd. by Certificates¹²

Pensylv pd best—

War establishmt. renders it necessary—

Tax as dilat[or]y The money will be wanted soon—The States will refuse, & if they do—unless they know the cause & approve it—

This amendt. supports the existence of all the officers—

That they will [use] force to collect it—

On a great emergency—we must borrow—[- - -] wish to pledge to borrow—

the England mode to pledge a certain article—

Impost & excises will be very insufft—Necessary to borrow—

peculiar advantg—to navig[atin]g State—esp[eciall]y this—

The State the Seat of war particularly inter[este]d brings us back to defend ourselves—this renders it necessary. to keep our resources—

2d. View interference of the State & gen. Govt—

Trace this Argt. it supposes the States govt Corrupt—

The States will be kept up because they are necessary.—

Examine does the Argt. lead to Corrupt[ion]—for the Argt. rests on this—

It is cons[titude]d of Reprt— of the People—of a Senate chosen by States—

of a Presid—chosen by select. Citizs—

They are such checks, in addt. to Oath, we are not to suppose

why do not our State govts. raise armies— they cannot

If corrupt—what object

they are annually to lay accots before the public—
 Suppose they did not acct. for money—the people would murmur—

The gent.—it must be gradual—

The system cant be laid in two years.

It is said an object to destroy the State gvts—If they cant exercise the power, why cant they do not—

The State Govt—as necesay.—as there are Officers—

The Gen. he cannot conceive two taxes on the same Artl—

The same artl will not be laid

If our [mode?] pursued—

Two Taxes laid by diff. powers—in our State—

things exist wh. the gn say cannot exist—

Must suppose the resources are compt. to both govt—

If they be the Citizens must pay both—

The expences of Govt. will be limited to their resources

3. As it respects citizens in particular—But little consequence if it must be pd—

The horse will be the first posse[ssio]n

The genl. Court to depend—

No citizen will be willing to give up State govt.

Interested in the govt. of the union—

some Citizens a partial Int—if seat of war [Melancton Smith, Notes, N]



R. R. LIVINGSTON. Many of the Principles not connected with the present Question—thinks the State Govts. advantageous & a Consolidation improper—As to the Excise it might be improper at the present Hour, but probably hereafter the Case will be different—Exports will decrease—Excises will be the only great Source of Revenue & are proper even in a View of Morality—Congress must have it, or it will be obliged to have Recourse to direct Taxation—The Subject of direct Taxation must be carefully attended to—cannot judge from the present Circumstances of Govt.—It may be necessary to have Recourse to it—the very Amendment implies that such a Necessity may exist—Requisitions have been ineffectual—Bounty Money should be deducted—N. Hampshire has felt little of the Calamities of War & has not complied with Requisitions—N. York has complied more fully, because it felt the Calamities of War—direct Taxes only necessary upon great Emergencies—Requisitions will be too slow—if refused the Remedy will be ineffectual—& may plunge the Confederacy into Wars—Loans cannot

be negotiated—Impost will be necessary to fund the present Debt—In Case of War, we are most interested to strengthen Congress—as we are most likely to become the Seat of War—2dly. As to the Likelihood of destroying the State Govts.—Not probable that the Union will be induced to destroy the State Govts. wh. leads to implies Corruption—not likely to be so—Concurrent Taxation may exist—The Ability to pay the Taxes is implied even by present Deliberations—3dly. respecting Individuals—best that the Money wh. must at all Events be paid should go directly into the State Legislature General Treasury. All the States Citizens are interested in the Preservation of the Union, & in paying towards it. [Richard Harison, Notes, DLC]

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R. R. LIVINGSTON. admts. the weight of some of Mr. Smith remarks. To avoid a consolidation of the States.
Admts. 2 Pro[positions]
1st. Prop: no imp[os]t on growth & man[ufatures]
2d. no Tax without a previous requisition—
Principal source of Revenue *Excise*.
Enumerates what may be the objts. of *Excise*
The Govts. of the State hereafter exceedingly smal.
The Natio[nal] G[overnment] extensive, incurs all the expence.
2d. Point vued in 3 diffg Lights
Gent. suppose, the interest on the previous debts—
They are mistaken, the demands will be Larger.
what is the effect of Requisitions? now will complained with
The states most remote from the Seat of war—have complied the least.
N.Y. complied most, because of the Seat of war.
S.C. also while the Enemy near—then issued certif[ic]ate: and assumed the debt as a State.¹³

Suppose—requisitns.—Legislature to meet at different Seasons, deliberate, and perhaps refuse—and the delay may produce ruin. A refusal of the state, is laying a foundation of an internal war.

No Taxes in time of war—To borrow, on a fund, the amendt. will defeat this purpose.

These Reflectns. if they have weight, is particularly [appropriate to?] NY. as a cōmercial State. We suffered most during the war.

Interference of clashing rights in the revenue a source [of] danger—But the N. Govt. will guard the State rights, as they are under the check of the States—The Senators for example—The Exe[cutive]: all checks upon corruption.

why does not our Govt. usurp, our Rights, confidence in the men—
The change of Representatives, every 2 years, a security agt. [an?] an-
nihilation of the State Government. The offcers. of the N. Govt. have
no temptation to destroy it.

We cannot suppose that the Union will lay taxes, on the Articles on
which the State has laid taxes.

Our State has double taxes—State & *County* taxes. no inconvenience
we acknowledge that the State resources are competent to pay both
State and national Governrs.

3d. As it respects the People—very little consequence how they pay
it—free from poundage, to the State Treasury.

The Horse case chimerical—[- - -] seizure the herd.

No Citizen would wish to give up the S[tate] G[overnment] and
equally interested in the general Government.

Would wish to confine ourselves to the subject [Robert Yates, Notes,
DLC]



R. R. LIVINGSTON. Ansd. III Objects propositions

1 That no excise be levied except in case of a deficiency in impost

2 No excise on our own manufactures

3. No direct tax be levied till after requisitions & neglect or refusal
to comply

Objt. 1st. to confine G[eneral] G[overnmen]t to imposts unless they
are deficient—

Ans:

Unnecessary prefers easiest way collecting

2 Shd. be disposed to do otherwise am[en]dmen]t not prevent it—

No precise duty fixed—

of course [question?] depends their will—

may render so small as to raise to excise—

Not supposed seems to difficult measure when easy our pros-
pects—

If they wd. amt. no check—

Imposts decrease as manufacture—If no Duties on Manufac-
tures—Only resource direct tax—

This requisition brings back old system—

Objt. 2. To prevent excise on articles own Manufacture

Ans:

proper present State country—

look forward time manufacturing country—

Wine Spirits brandy—Malt Spirits—Beer—

Not only source revenue but morals country [render] necessary to tax them—

Maybe sd. State tax them—

Expenditures State Small—

Not tax them beyond what necessary—

This Source revenue taken from Union—render a direct tax more Necessary—

3 Objt. To prevent a direct tax without requisition—

Consd. 3 Views

1. Respt. Genl Govt.

2 State

3. Citizens—

1. Respt. Genl Govt.

Not take idea—present Situation—

Contemplate various situations may future be placed—War destroy imports—Large armaments be necessary w[i]thin short period—

Necessities other Nations—Coin plate &c.

Mo. recognizes possible want—

Inquire plan proposed calculated remove those wants

1. [Revives?] old System requisition—

Not one ever complied wth. no reason expt. will future—made situation critical—[ever?] probably will be—

2 Delays—y[ea]r before legislatures convene from system taxation—carry it into effect

3 Consequences to States may be seat [of] war—over run—compelled extraordinary ex[er]tions—

4. Endeavors to guard this by collection or refusal—no remedy

1. When State refuses i[n]dividuals will not pay—none dare collect—

2 Not possible compel them when emergency exists—

very ins[tant] therefore while it acknowledges that necessity may exist—defeats what acknowledges necessary—

2d Respg. State Govt

This source objections arise—

1. That rights interfere

2 That be in power Genl govt. to annihilate State Govt. by attaching its resources—

Argt. at least plausible—

Nature to warm the imagination shd. be examined coolly & cautiously—

presume resources State adequate wants *both*

1. Trace back find source of them in corruption of Genl Govt.—
wh. great or small in proportion supposed probability of corrup-
tion—

Nature Govt.—No. representatives—progressing—Citizens—in-
terested State—return to it—Senate—selected case—

President Always 1st. integrity & Abilities—[sanction?] oath—

What other securities do our own Govt. afford agt. Legislatures
standing armies enslaving people—

Attempt how effect it—distinguish—between Exclusive & concur-
ring power—

tax layd on same article—concurring powers—[- - -] people
with state paid preference— [Robert R. Livingston, Notes, NHi]

* * * * *

MELANCTON SMITH remarked that *from time to time*¹⁴ might mean,
from century to century, or—in any period of twenty or thirty years.
[Childs, *Debates*, 103]

—◆—

SMITH. I Suppose from [time] to time may be once in twenty years—
or *from time to time* may be from *One Century to another*—~~two publications~~
~~will be from time to time~~ [McKesson's Notes, NHi]

* * * * *

ROBERT R. LIVINGSTON asked if the public were more anxious about
any thing under Heaven, than the expenditure of money. Will not the
representatives, said he, consider it as essential to their popularity, to
gratify their constituents with full and frequent statements of the public
accounts? There can be no doubt of it. [Childs, *Debates*, 103]

—◆—

R. R. LIVINGSTON. It is to be presumed that as people are anxious
about the payment of public Money The publications will be made as
frequent as they need be when the Accounts are ready if not annually
[McKesson's Notes, NHi]

* * * * *

MELANCTON SMITH. I only told the Gent he had mistated the Clause
that the acct. were [McKesson's Notes, NHi]

* * * * *

ALEXANDER HAMILTON. This is one of those subjects, Mr. Chairman,
on which objections very naturally arise, and assume the most plausible
shape. Its address is to the passions, and its first impressions create a
prejudice, before cool examination has an opportunity for exertion. It

is more easy for the human mind to calculate the evils, than the advantages of a measure; and vastly more natural to apprehend the danger, than to see the necessity, of giving powers to our rulers. Hence I may justly expect, that those who hear me, will place less confidence in those arguments which oppose, than in those which favour, their prepossessions.

After all our doubts, our suspicions and speculations, on the subject of government, we must return at last to this important truth—that when we have formed a constitution upon free principles, when we have given a proper balance to the different branches of administration, and fixed representation upon pure and equal principles, we may with safety furnish it with all the powers, necessary to answer, in the most ample manner, the purposes of government. The great desiderata are a free representation, and mutual checks: When these are obtained, all our apprehension[s] of the extent of powers are unjust and imaginary. What then is the structure of this constitution? One branch of the legislature is to be elected by the people—by the same people, who choose your state representatives: Its members are to hold their office two years, and then return to their constituents. Here, sir, the people govern: Here they act by their immediate representatives. You have also a senate, constituted by your state legislatures—by men, in whom you place the highest confidence; and forming another representative branch. Then again you have an executive magistrate, created by a form of election, which merits universal admiration. In the form of this government, and in the mode of legislation, you find all the checks which the greatest politicians and the best writers have ever conceived. What more can reasonable men desire? Is there any one branch, in which the whole legislative and executive powers are lodged? No. The legislative authority is lodged in three distinct branches properly balanced: The executive authority is divided between two branches; and the judicial is still reserved for an independent body, who hold their office during good behaviour. This organization is so complex, so skillfully contrived, that it is next to impossible that an impolitic or wicked measure should pass the great scrutiny with success. Now what do gentlemen mean by coming forward and declaiming against this government? Why do they say we ought to limit its powers, to disable it, and to destroy its capacity of blessing the people? Has philosophy suggested—has experience taught, that such a government ought not to be trusted with every thing necessary for the good of society? Sir, when you have divided and nicely balanced the departments of government; When you have strongly connected the virtue of your rulers with their interest;

when, in short, you have rendered your system as perfect as human forms can be; you must place confidence; you must give power.

We have heard a great deal of the sword and the purse: It is said, our liberties are in danger, if both are possessed by Congress. Let us see what is the true meaning of this maxim, which has been so much used, and so little understood. It is, that you shall not place these powers in either the legislative or executive singly: Neither one nor the other shall have both; Because this would destroy that division of powers, on which political liberty is founded; and would furnish one body with all the means of tyranny. But where the purse is lodged in one branch, and the sword in another, there can be no danger. All governments have possessed these powers. They would be monsters without them, and incapable of exertion. What is your state government? Does not your legislature command what money it pleases? Does not your executive execute the laws without restraint? These distinctions between the purse and the sword have no application to the system, but only to its separate branches. Sir, when we reason about the great interests of a great people, it is high time that we dismiss our prejudices and banish declamation.

In order to induce us to consider the powers given by this constitution as dangerous; In order to render plausible an attempt to take away the life and spirit of the most important power in government; the gentleman [Melancton Smith] complains that we shall not have a true and safe representation. I have asked him, what a safe representation is; and he has given no satisfactory answer.¹⁵ The assembly of New-York has been mentioned as a proper standard: But if we apply this standard to the general government, our Congress will become a mere mob, exposed to every irregular impulse, and subject to every breeze of faction. Can such a system afford security? Can you have confidence in such a body? The idea of taking the ratio of representation, in a small society, for the ratio of a great one, is a fallacy which ought to be exposed. It is impossible to ascertain to what point our representation will increase: It may vary from one, to two, three or four hundred—It depends upon the progress of population. Suppose it to rest at two hundred—Is not this number sufficient to secure it against corruption? Human nature must be a much more weak and despicable thing, than I apprehend it to be, if two hundred of our fellow citizens can be corrupted in two years. But suppose they are corrupted; can they in two years accomplish their designs? Can they form a combination, and even lay a foundation for a system of tyranny, in so short a period? It is far from my intention to wound the feelings of any gentleman; but I must, in this most interesting discussion, speak of things as they are;

and hold up opinions in the light in which they ought to appear: and I maintain, that all that has been said of corruption, of the purse and the sword, and of the danger of giving powers, is not supported by principle or fact—That it is mere verbage, and idle declamation. The true principle of government is this—Make the system compleat in its structure; give a perfect proportion and balance to its parts; and the powers you give it will never affect your security. The question then, of the division of powers between the general and state governments, is a question of convenience: It becomes a prudential enquiry, what powers are proper to be reserved to the latter; and this immediately involves another enquiry into the proper objects of the two governments. This is the criterion, by which we shall determine the just distribution of powers.

The great leading objects of the federal government, in which revenue is concerned, are to maintain domestic peace, and provide for the common defence. In these are comprehended the regulation of commerce; that is, the whole system of foreign intercourse; the support of armies and navies, and of the civil administration. It is useless to go into detail—Every one knows that the objects of the general government are numerous, extensive and important. Every one must acknowledge the necessity of giving powers, in all respects and in every degree, equal to these objects. This principle assented to, let us enquire what are the objects of the state governments. Have they to provide against foreign invasion? Have they to maintain fleets and armies? Have they any concern in the regulation of commerce, the procuring alliances, or forming treaties of peace? No: Their objects are merely civil and domestic; to support the legislative establishment, and to provide for the administration of the laws. Let any one compare the expence of supporting the civil list in a state, with the expence of providing for the defence of the union—The difference is almost beyond calculation.—The experience of Great-Britain will throw some light on this subject—In that kingdom, the ordinary expences of peace to those of war, are as one to fourteen: But there they have a monarch, with his splendid court, and an enormous civil establishment, with which we have nothing in this country to compare. If, in Great-Britain, the expences of war and peace are so disproportioned; how wide will be their disparity in the United States; How infinitely wider between the general government and each individual state! Now, Sir, where ought the great resources to be lodged? Every rational man will give an immediate answer. To what extent shall these resources be possessed? Reason says as far as possible exigencies can require; that is, without limitation. A constitution cannot set bounds to a nation's wants; it ought not therefore

to set bounds to its resources. Unexpected invasions—long and ruinous wars, may demand all the possible abilities of the country: Shall not your government have power to call these abilities into action? The contingencies of society are not reducible to calculations: They cannot be fixed or bounded, even in imagination. Will you limit the means of your defence, when you cannot ascertain the force or extent of the invasion? Even in ordinary wars, a government is frequently obliged to call for supplies, to the temporary oppression of the people.

Sir, if we adopt the idea of exclusive revenues, we shall be obliged to fix some distinguishing line, which neither government shall overpass. The inconveniencies of this measure must appear evident, on the slightest examination. The resources appropriated to one, may diminish or fail; while those of the other may increase, beyond the wants of government: One may be destitute of revenues, while the other shall possess an unnecessary abundance: and the constitution will be an eternal barrier to a mutual intercourse and relief. In this case, will the individual states stand on so good a ground, as if the objects of taxation were left free and open to the embrace of both the governments? Possibly, in the advancement of commerce, the imposts may increase to such a degree, as to render direct taxes unnecessary; These resources then, as the constitution stands, may be occasionally relinquished to the states: But on the gentleman's [Melancton Smith's] idea of prescribing exclusive limits, and precluding all reciprocal communication, this would be entirely improper. The laws of the states must not touch the appropriated resources of the United States, whatever may be their wants. Would it not be of more advantage to the states, to have a concurrent jurisdiction extending to all the sources of revenue, than to be confined to such a small resource, as, on calculation of the objects of the two governments, should appear to be their due proportion? Certainly you cannot hesitate on this question. The gentleman's plan would have a further ill effect; It would tend to dissolve the connexion and correspondence of the two governments, to estrange them from each other, and to destroy that mutual dependence, which forms the essence of union.

Sir, a number of arguments have been advanced by an honorable member from New-York [Robert R. Livingston], which to every unclouded mind must carry conviction. He has stated, that in sudden emergencies, it may be necessary to borrow; and that it is impossible to borrow, unless you have funds to pledge for the payment of your debts. Limiting the powers of government to certain resources, is rendering the fund precarious; and obliging the government to ask, instead of empowering them to command, is to destroy all confidence

and credit. If the power of taxing is restricted, the consequence is, that on the breaking out of a war, you must divert the funds, appropriated to the payment of debts, to answer immediate exigencies. Thus you violate your engagements, at the very time you increase the burthen of them. Besides, sound policy condemns the practice of accumulating debts. A government, to act with energy, should have the possession of all its revenues to answer present purposes. The principle, for which I contend, is recognized in all its extent by our old constitution. Congress is authorised to raise troops, to call for supplies without limitation, and to borrow money to any amount. It is true, they must use the form of recommendations and requisitions: but the states are bound by the solemn ties of honor, of justice, of religion, to comply without reserve.

Mr. Chairman, it has been advanced as a principle, that no government but a despotism can exist in a very extensive country.¹⁶—This is a melancholy consideration indeed. If it were founded on truth, we ought to dismiss the idea of a republican government, even for the state of New York. This idea has been taken from a celebrated writer, who, by being misunderstood, has been the occasion of frequent fallacies in our reasoning on political subjects. But the position has been misapprehended; and its application is entirely false and unwarrantable: It relates only to democracies, where the whole body of the people meet to transact business; and where representation is unknown.¹⁷ Such were a number of antient, and some modern independent cities. Men who read without attention, have taken these maxims respecting the extent of country; and, contrary to their proper meaning, have applied them to republics in general. This application is wrong, in respect to all representative governments; but especially in relation to a confederacy of states, in which the supreme legislature has only general powers, and the civil and domestic concerns of the people are regulated by the laws of the several states. This distinction being kept in view, all the difficulty will vanish, and we may easily conceive, that the people of a large country may be represented as truly, as those of a small one. An assembly constituted for general purposes, may be fully competent to every federal regulation, without being too numerous for deliberate conduct. If the state governments were to be abolished, the question would wear a different face: but this idea is inadmissible. They are absolutely necessary to the system. Their existence must form a leading principle in the most perfect constitution we could form. I insist, that it never can be the interest or desire of the national legislature, to destroy the state governments. It can derive no advantage from such an event; But, on the contrary, would lose an indispensable support, a necessary aid in executing the laws, and conveying the influence of

government to the doors of the people. The union is dependent on the will of the state governments for its chief magistrate, and for its senate. The blow aimed at the members, must give a fatal wound to the head; and the destruction of the states must be at once a political suicide. Can the national government be guilty of this madness? What inducements, what temptations can they have? Will they attach new honors to their station; will they increase the national strength; will they multiply the national resources; will they make themselves more respectable, in the view of foreign nations, or of their fellow citizens, by robbing the states of their constitutional privileges? But imagine, for a moment, that a political frenzy should seize the government—Suppose they should make the attempt. Certainly, Sir, it would be forever impracticable. This has been sufficiently demonstrated by reason and experience. It has been proved, that the members of republics have been, and ever will be, stronger than the head. Let us attend to one general historical example. In the antient feudal governments of Europe, there were, in the first place a monarch; subordinate to him, a body of nobles; and subject to these, the vassals or the whole body of the people. The authority of the kings was limited, and that of the barons considerably independent. A great part of the early wars in Europe were contests between the king and his nobility. In these contests, the latter possessed many advantages derived from their influence, and the immediate command they had over the people; and they generally prevailed. The history of the feudal wars exhibits little more than a series of successful encroachments on the prerogatives of monarchy. Here, Sir, is one great proof of the superiority, which the members in limited governments possess over their head. As long as the barons enjoyed the confidence and attachment of the people, they had the strength of the country on their side, and were irresistible. I may be told, that in some instances the barons were overcome: But how did this happen? Sir, they took advantage of the depression of the royal authority, and the establishment of their own power, to oppress and tyrannise over their vassals. As commerce enlarged, and as wealth and civilization increased, the people began to feel their own weight and consequence: They grew tired of their oppressions; united their strength with that of the prince; and threw off the yoke of aristocracy. These very instances prove what I contend for: They prove, that in whatever direction the popular weight leans, the current of power will flow: Wherever the popular attachments lie, there will rest the political superiority. Sir, can it be supposed that the state governments will become the oppressors of the people? Will they forfeit their affections? Will they combine to destroy the liberties and happiness of their fellow citizens, for the sole purpose of involving

themselves in ruin? God forbid! The idea, Sir, is shocking! It outrages every feeling of humanity, and every dictate of common sense!

There are certain social principles in human nature, from which we may draw the most solid conclusions with respect to the conduct of individuals, and of communities. We love our families, more than our neighbours: We love our neighbours, more than our countrymen in general. The human affections, like the solar heat, lose their intensity, as they depart from the center; and become languid, in proportion to the expansion of the circle, on which they act. On these principles, the attachment of the individual will be first and forever secured by the state governments: They will be a mutual protection and support. Another source of influence, which has already been pointed out, is the various official connections in the states. Gentlemen endeavour to evade the force of this, by saying that these offices will be insignificant. This is by no means true. The state officers will ever be important, because they are necessary and useful. Their powers are such, as are extremely interesting to the people; such as affect their property, their liberty and life. What is more important, than the administration of justice, and the execution of the civil and criminal laws? Can the state governments become insignificant, while they have the power of raising money independently and without controul? If they are really useful; If they are calculated to promote the essential interests of the people; they must have their confidence and support. The states can never lose their powers, till the whole people of America are robbed of their liberties. These must go together, they must support each other, or meet one common fate. On the gentleman's [Melancton Smith's] principle, we may safely trust the state governments, tho' we have no means of resisting them: but we cannot confide in the national government, tho' we have an effectual, constitutional guard against every encroachment. This is the essence of their argument, and it is false and fallacious beyond conception.

With regard to the jurisdiction of the two governments, I shall certainly admit that the constitution ought to be so formed, as not to prevent the states from providing for their own existence; and I maintain that it is so formed; and that their power of providing for themselves is sufficiently established. This is conceded by one gentleman [Melancton Smith], and in the next breath, the concession is retracted. He says, Congress have but one exclusive right in taxation; that of duties on imports: Certainly then, their other powers are only concurrent. But to take off the force of this obvious conclusion, he immediately says that the laws of the United States are supreme; and that where there is one supreme, there cannot be a concurrent authority: and

further, that where the laws of the union are supreme, those of the states must be subordinate; because, there cannot be two supremes. This is curious sophistry. That two supreme powers cannot act together, is false. They are inconsistent only when they are aimed at each other, or at one indivisible object. The laws of the United States are supreme, as to all their proper, constitutional objects: The laws of the states are supreme in the same way. These supreme laws may act on different objects, without clashing; or they may operate on different parts of the same common object, with perfect harmony. Suppose both governments should lay a tax of a penny on a certain article: Has not each an independent and uncontrollable power to collect its own tax? The meaning of the maxim—that there can not be two supremes—is simply this:—Two powers cannot be supreme over each other. This meaning is entirely perverted by the gentlemen. But, it is said, disputes between collectors are to be referred to the federal courts. This is again wandering in the field of conjecture. But suppose the fact certain: Is it not to be presumed, that they will express the true meaning of the constitution and the laws? Will they not be bound to consider the concurrent jurisdiction; to declare that both the taxes shall have equal operation; that both the powers, in that respect, are sovereign and co-extensive? If they transgress their duty, we are to hope that they will be punished. Sir, we can reason from probabilities alone. When we leave common sense, and give ourselves up to conjecture, there can be no certainty, no security in our reasonings.

I imagine I have stated to the committee abundant reasons to prove the entire safety of the state governments and of the people. I would go into a more minute consideration of the nature of the concurrent jurisdiction, and the operation of the laws, in relation to revenue; but at present I feel too much indisposed to proceed. I shall, with the leave of the committee, improve another opportunity of expressing to them more fully my ideas on this point. I wish the committee to remember, that the constitution under examination is framed upon truly republican principles; and that, as it is expressly designed to provide for the common protection and the general welfare of the United States, it must be utterly repugnant to this constitution, to subvert the state governments, or oppress the people.

Convention adjourned. [Childs, *Debates*, 103–9]

HAMILTON. It is more natural to the Mind of man to examine the Powers by which money is to be taken from him—than the necessity or reasons of those powers—

In Regard to the Safety and Liberty of the people you are to constitute it to preserve Liberty with Power to preserve itself and with sufficient Checks—

1. This Govt. has represent elected only for two years—this the peoples Govt.

2d. A Senate for 6 years—elected by the Peoples Represent. this is a Repub Branch

3d. A President elected by the People—for 4 years—how to be done—Electors equal to the No. of meet in Each State—

If not elected

then to be elected by the House of Represent

Here is a Republican Magistrate—

Here is a House of Assemy & Senate—these have a Check and Negative on each other—here is all the Security

Then their Laws are to be submitted to this Chief Magistrate

If a Virtuous Minority in either House

But you have a Court formed on the best of principles and appointed during

Where will Jealousies End—Can any more be obtained in Society—

The Executive Legislative and Judicial separated—

Unless Power is lodged somewhere there can be no Govt. nor Any Business done—

Where is the Govt. which had not the purse and the sword Except that Shaddow Thing the *Old Confederat*

The Truth is the purse and [sword] Should not be one Branch or one Man—The *Executive* must have the *Sword* the Legislative the *Purse*

Time when we reason about the great Interests of a great People—we should attend only to reason—

In order to evade the force of these reasons it is said that we cannot have an adequate Representation under this Govt.

here he will have an adequate Representation

If we had 3000 Representatives would it not be a Mob

A Sufficient Number may be 60—or 200, 300, or 400—

When the Govt. acquires respectability you will easily get Men who will Serve—

Will 200 Men be corrupted in 2 years—If they do can they in two years destroy your Liberties—Can Such Number combine—

You begin with 61 [i.e., 65] Members 26 Senators and a President

All this Conversation about an Inadequate Representation is only fanciful a Phantom & Ens Rationis¹⁸—

This Govt. has every thing necessary

Every danger of Liberty Suggested is mere talking—

The Powers then should be what is Convenient—

The 1st. Object is Common Defence—

The Commerce &ca. will be committed—

What does Com Defence imply

1st. Defensive

2d Offensive

What do these require—Money for domestic Police and the civil Governmt.—

Money for common Defence—

In Britain the difference is 14 15th. for the Com Defence & one 15th. for the other—

Then where should the Power of Taxation be lodged—In the Genl. Govt. or in the State Govts.

Common Sense will say in the Hands of the Genl Govt.

The Genl. Govt. intrusted with that object from whence arise the great source of Expence—Should have the Means to support that Expence—

The Power of Taxation should be coextensive with necessities of Defence—Why transfer this Power from the Hands where most

If we find out any Resources of Revenue for the States it must only be one 15th. will the States be satisfied with this—

It has been admitted the Genl Govt. and State Govts. have a concurrent Power as to Taxation (except Imposts[.])

Many Evils would arise from limited Powers—

1st. At the breaking out of a War you must change your funds—

2d. As they go along they should pay as much as they can—If the[y] cannot do this they will run in Debt and leave an Immense Burthen in Posterity

The Principle I contend for is acknowledged by *the Confederation* vizt

That you cannot *limit that power that is to provide for the Exigencies of the Community*

The Amendmt. proposed admits this—

But I shall Shew it is not so useful or Beneficial as the present Constitution—

It is said an Extensive Territory must have a Despotism—

The Position is misunderstood—

The principle there contemplates such narrow limits where all the People are called together to deliberate—

Not the Case with us—We are represented by Delegates or Representatives—Therefore our Republics may be as large as we can bring Represent[atives] conveniently together—

The Writers allow that there may be an Association of States to any Extent—And this will

I admit there must be local Govts. in this Country—It cannot be the Interest or desire to undermine the State Govts.

The National Govt would destroy itself if it destroyed the State Govts.

They could never have a president—They could have no senate—

Would they destroy themselves to destroy the State Govts.

to what End—If they have all the Power necessary what more can they want—what motive could they have—

It is a Dream—

Next I say it would be Impracticable to destroy the State Governments—Some of the Ancient Confederacies rested on particular Legislation—

In General the feudatory Barons prevailed agt. the Sover[e]igns—where the Contrary prevailed it was because the Barons were the oppressors of their followers—

If the Genl Govt should become oppressors let them be destroyed—

The People of the State will love their State better than the united States—

They will love the Govt. where they have the Sole power—than that in which they have only a part—

The State Govts. will continue—Their No. of Representatives are and will be more numerous—The Expect[at]ions of Honor in that way looked up to Militia Officers—Judges—Justices—Sheriffs—will give power to the State Govts.—

The State govts. will make Laws as to Crimes—and Internal Police—

I said they would make Laws for Agriculture Manufactures Canals—and whatever more Sensibly affects Individuals—

It is conclusively true that the State Governmt. and Genl. Govt. have concurrent Jurisdictions (except as to

Will the State Govts. be insignificant because the[y] do not act for the national Govt.—If they are useful to the People they will have the attachmt. of the people

The Notion is the most wild—

You may trust your State Govts. because you have no power to controul—

I admit—That the Genl Govt. should be so constituted as not to prevent the State Govts. to provide for themselves—

It is admitted that the Govts. have concurrent Jurisdiction—and yet takes it off by saying the Laws of the united States are Supreme—

Suppose the Genl Govt. to lay a Tax on Land—it will be Supreme—Let the State do the like—It will also be Supreme—

It is objected the Courts of Genl Govt. to determine—
 Are they not to be on Oath—will they not do right—if not will be impeached

No such thing as Supreme where there is a concurr. Juris
 This Concurr. Jurisdiction does exist— [McKesson's Notes, NH]

—◆—
 HAMILTON. It is natural to suspect such a power of money—more than necessity of govt—

men prejudiced—

have read govt.—wrong Ideas—his Ideas to give a safe and equal repr—no danger to entrust rulers in Republics—

owes it[s] origin to the present times—

This a Republic Govt—

one part to be chosen by the people for two Years

the next—chosen for 6 Years by peoples Repre—

—the presid. chosen mediately by the people for 4 Years—

entitled to approbation—even admiration—

has all Checks—not confd. powers—two Branches—submd. to a chief magistr—a court admi[r]ably calculated—holding places during good behavr—

why do gentn. come forward—Nobody ever said before, that a govt. shd. not be entrusted wt all power necessary—

To talk of despotism as appld. to this govt. abs[ur]d—all govts. has the purse and the absurd [i.e., sword]—no Instance except the shadowy govt. of ancient Republics—

The maxim applies to the diff. departments—the Legisl. ought not to have the purse & Sword

It is high time we shd. reason right—The saying, tht this govt. is unsafe—contrary to the opinions of all writers—

What is an adequate representation—this State a mean—one to 4000—

the US: may be 10.0000[00]—this wd. be a mob—

The rule in a small commy.—will not apply to a large one—

If it goes to 200—will be sufft. to deliberate—secure again[st] Corrupt—cant [be] made in 2 Years—no Idea 60 or 80—can combine—no man who does not substitute fancy to reality—

This govt. all the requisites that any writer or reasoner—

The talk of danger to Liberty is verbage—what power is necessary—a question what is convenient—

What the objects of the nat. gov—

As applied to revenue, common defence—implies a power of war offensive & defence—The sources of expence—the maintainance of internal policy—and defence—

what is the propor. between them—
 In great B., where a monarch, a Court &c—the proportion, is abt. 14 to 1—
 where ought to be lodged—is it most necessary in the natl. or State govts—
 To the State govts. who have only $\frac{1}{14}$ —
 the Body who have the genl. govt—
 No limits to the power, who cannot be limd—if we are to appropriate we must give the $\frac{1}{15}$ —
 To a mind not predisposed, the argts. sufficient—
 —In order to borrow—must have funds—
 must run in debt—sound policy, to contribute as much as they can—
 must run in Debt more than is necessary—
^(a)—This principle recognized by the confederation attestation to the principle—[they?] not effectual—This principle admitted in the amendment—
 If it necessary, give it all effect—
 Said—This doctrine oppd. to Liberty—An extensive Country must be a despotism—N. York—beyond the limits contemplated—misunderstood—
^(b)The principle confd. to democracies—You may delegate from any extent—^(c)No qualif. to this, but that an extensive govt. No attention of govtnt. to adminr. of justice and regulating internal police—
 admits there must be local govtnt—
 The natl. govt. have no incl—because the State govts.—necy. props—
 It wd. be a suicide—it cannot take care of the affairs—& depends on the S. Govts—^(d)No Presidt.—No Senate—investg. proposn.—no motive—a dream—
 would be impracticable—History proves that in all confd. govts. the members are stronger than head—Some of the ancient republics rested in the head—In Europe, the Govts. were divided into feudatories—they generally prevailed—The Instances where the head has prevailed, the Barons have been oppressors—
^(e)The State governments will not be tyrannies—The people will have confidence, because we love our family—
 Are more numerous offices—
 have families connect[ion]s &c—
 the State govts. have the appd. of all militia officers—Judges &c—
 The objects of the two govts.—to pass all Laws of crimes,—the Courts, be in view the people—
 Agriculture, manufactures, as other go[v]ts—
 —The State govt. concurrent jurisdiction—

The most part of the time, not taken up in making Laws for taxes—
they will have most of the power they now have—

The position of end of Liberty, most fanciful—

The reasoning amot. to this, you must not trust the genl. govermt.
because you have the greatest checks upon them—

The State govts. ought to have the means of their own—

admitting concurrent jurisdict—there is no supreme—inconst—

Supposing one penny an Acre of Land by the general gov't—the State
govt. anotr. penny—

the Courts to judge—walking in a Line of usurpation—the Judges
appointed during pleasure—

^(f)Remember this is a true repub. gov. with all checks security—

[Smith's marginal notes]

(a) Consent to the Checks

(b) I said so

(c) all the world

(d) on Election law the gen Gov. must have the means of
their own existence

(e) another principle men will not submit to a phantom

(f) the cause must [go to?] the [- - -] [Melancton Smith,
Notes, N]

—◆—

HAMILTON. ☞ Mr. Hamilton—bravo—! As far as it went one of the
most excellent energetic Speeches that ever I heard—He began by
displaying the Form of the proposed Constitution—shewing that it was
truly republican—that if the Govt. was such as to be deserving of Con-
fidence all Confidence should be placed in it, otherwise it could not
answer the Purposes of Govt.—that the Situation of the Country might
require the Use of all it's Resources—that as to direct Taxation the two
Govts. possessed concurrent Jurisdiction—that it was not probable they
would interfere—that the Authority of Congress to make Laws which
were to be the Supreme Law of the Land, did not imply that the State
Laws where they have concurrent Jurisdiction should not also be *su-
preme* [Richard Harison, Notes, DLC]

—◆—

HAMILTON. we are apt to contemplate, on money maters in favor of
the danger, rather than its necessity.

The division of Powers well adjusted may be well trusted.

This is constructed on republican Principles—Short Period 2 Years

It is the people's govermt.

The Senate, how constituted—by whom—how long 6 years

The Executive elected by the People. Admirable Token to chuse a good executive—how and by whom—The determ. of the Senate. you must then give Power.

What is meant by these general districts.

Purse and the *sword*. how applied to the general Govt. mere declamation.

What is an adequate representn? no informn. given—it may be too great. 10.000000. 2000 Repres[entativ]es. This is a mob—no stability. 200. is sufficient agt. *corruption* or *combination*

The quest. of conven[ien]ce—What Portion of Power ought to be given to the G.G. what to be retained to the State.

What the objects of the Genl. Gov. *Commerce* and common Defence.

Maintaince [i.e., maintenance] of civil Police—~~and common~~ domestic *admtn.* in State Government. In England the one to the other as 15 to 1. N Govt. the great source of defence. Their defence and expence unlimited—without Limits—Limit the means or the resources—unwise

We must run in *Debt*. N Govt. must command the resources of the Country. The power must be *indefinite*. and stand on the most substantial basis.

An Extended republic, is more capable to secure the Liberties than a Confined one. Represent. may issue from any extent of Country—despotic Govt. Authors say can be extensive, but they say associated Rep[ublic]s may—It never can be the desire of the N Govt. to destroy the State Govt. it would be a suicide. Never can have a president, no senate—Without a State Governnt.—It is a dream, for it must end in a dissolution of the Genl. Govt.

King feudal subjts. Barons—divided—dependence on the People—made the Change—people sided with the King agt. the Barons. that S G. will lose the confidence,—It cannot be—It will remain in reputation—the gradation of *Love* families—neighbours so on—

Concurrent jurisdn. cannot be when one is supreme. [Robert Yates, Notes, DLC]

[MELANCTON SMITH?]¹⁹ more safe—Power to draw forth all the Resources of the Union not in any Govt. except a despotic Govt.—Genl. Govt. will have many exclusive Sources of Revenue—Excise & direct Taxes only necessary upon extraordinary Occasions—State Govts. will be better able to lay the Tax *equally*—& will have more of the Confidence of the People therefore their Laws must be better executed—unless from Want of Inclination in the State Govts.—1. State Govts. will comply with Requisitions if able—must be inclined to support the

Genl. Govt.—Additional Security from Power of Coercion—will be induced to comply from an Apprehension of Interference of Officers of General Govt.—Calculation of England does not apply—Standing Army—Fleets—Garrisons—Money will be wanting for Paymt. of State Debts as well as Debts of the Union—they are nearly equal in Amount.—The general Govt. would not have raised more than the State Govts. have (Hiatus)—During the War direct Taxes could not have been raised except at the Point of the Bayonet—In the Condition of N England no more Money would have been raised by Taxation than by Requisitions—Inability the Cause of Failure, and Expectation of the Impost succeeding—Gentn. from the Failure of Requisitions conclude too much—Genl. Govt. will obtain more by Requisitions than by direct Taxation—No such Taxation could be carried into Effect, by the genl. Govt.—it would not be complied with—probably this Power if it could be complied with, would oppress the People—the S. Govts. would know the Circumstances of the People best—Deficiencies of Taxes & Requisitions would be nearly *equal*—would be induced to be as moderate in one Way as in other—& will lay out all the Money they get—No Requisition will be made unless the general Govt. is *wicked & mad*—unless the real Exigencies of the Govt. require it—This Power dangerous to the Existence of the State Govts.—& the Amendmt. renders their Interference necessary—Only requisite to meet when Senators are to be chosen—Where the Revenue & Force of the Union are placed all Power is placed—they may destroy all subordinate Powers—State Govts. are component Parts of the Genl. Govt.—& should have Power of the Sword & Purse in Part.—

Leaves further Observations to another Time, as to Safety of State Govts. and *Concurrent Jurisdiction*— [Richard Harison, Notes, DLC]

—◆—
Afternoon

MELANCTON SMITH. Impost will find it's Level.

As to Excise—

Several unanswerable Reasons agt. it

1. Will operate unequally by falling upon the manufacturing States—

2. Requisitions will be equal because the manufacturing States will increase in Numbers.

3—improper to discourage Manufactures.—

Ideas stated as to concurrent Jurisdictions by Mr. H. not accurate—but he admits that there is a concurrent Jurisdiction tho' that may be under the Controul of the general Govt.— [Richard Harison, Notes, DLC]

* * * * *

JOHN LANSING, JR. As to concurrent Jurisdiction Genl. Power to levy Taxes in the Genl. Govt. & Power to interfere by the Declaration that their Laws would be the Supreme Law of the Land—May declare their Laws to be paramount—Case of the two Creditors not fairly stated—one is to be considered as having a Conveyance of the Debtor's whole Property—Genl. Govt. have a Right to say that no more than Id. a Day an Acre ought to be imposed— [Richard Harison, Notes, DLC]

* * * * *

SAMUEL JONES. Clause proposes to give Genl. Govt. every Object of Taxation—it is objected that State Govts. will have no Subject left—Neither State nor Genl. Govt. is a comp[lete?] Govt. alone—necessary to harmonize—to give some Stability to State Govts.—this admitted—the Question as to the Extent—[The?] One Side say they have no Support the other that they are strong enough—the Object of the Amendmt. to give further Support to the State Govts.—Excise will answer that Purpose & be a Fund for their Support wh. they will not abuse—improper to limit the Quantum of Taxes for the general Govt. but some Fund must be fixed for the [State?] Govt.—this will be the proper Fund^(a)—~~Concurrent Jurisdiction~~ Time will come when both the Excise & Exports must go [to the?] Genl. Govt.—As to concurrent Ju[risdiction?] not to be found in the Constitution [it?] must be deduced from Arguments founded upon it—if concurrent Jurisdiction exists, there must be some [Supreme?] Power to controul—& one *superintending Tribunal*—the Construction is not just [clear?] & necessary—such concurrent Powers [ought?] not to exist & the Construction is not necessary. Between Individuals he should decide in Favor [of?] the Construction—might create Contests—does not know how far Genl. Govt. could exercise this Power but thinks it could not be exercised fairly and equally—not sufficiently informed—Apportionmt. between the States is easy, between the Counties would be difficult—Numbers would be no Rule—cannot take up last Quota because Circumstances may vary—Valuation expensive—all these Difficulties removed by adopting the Amendmt.—

(a) Limitation of Exports in the Constitution shew the Power may be limited as to Objects— [Richard Harison, Notes, DLC]

1. Robert R. Livingston found this example humorous. See at note 11.

2. Rhode Island—sometimes called “Rogue’s Island”—was universally denounced for paper money policies that favored debtors. The state had also refused to grant Congress the Impost of 1781; it did not send delegates to the Constitutional Convention of 1787

that drafted the Constitution; it did not call a state convention to consider the Constitution; and in March 1788 its inhabitants rejected the Constitution in a referendum, boycotted by Federalists, by a vote of 2,711 to 239.

3. Shays's Rebellion.

4. Smith's estimate indicates that the states had paid two-thirds of the congressional requisitions. New York, however, was the only state that paid as much as two-thirds of the congressional requisitions between 1781 and 1787. For the payment of the congressional requisitions by the states for these years, see RCS:N.Y., 14, note 4.

5. According to John McKesson's notes (RCS:N.Y., 1929, at note 6), Smith was referring to the Impost of 1783 (CDR, 146–48). The phrase "adequate to the exigencies" comes from Congress' 21 February 1787 call of the Constitutional Convention (CDR, 187).

6. Smith might be referring to the Impost of 1781 and Congress' accompanying \$8 million request of funds. In 1783 Congress again proposed an impost and requested \$1.5 million.

7. "Appeal in forma pauperis" describes the permission given to a poor person to sue without liability for costs (*Black's Law Dictionary*).

8. Williams employed the phrase "light of Heaven" (i.e., the sun) as another means to call attention to the possibility of a window tax. (See his speech of 26 June, above, for his earlier reference to a window tax.) In England, this tax—levied for the first time in 1696—was notorious and owners of houses devised ways of trying to avoid it, but it was difficult to escape.

9. *Spirit of Laws*, I, Book XIII, chapter XIV, 317–18.

10. The reference is probably to the October 1781 requisition for \$8 million that was to be paid in specie or paper instruments issued from the Confederation Office of Finance in 1782. The British occupied South Carolina from May 1780 to December 1782 and, for a time, the state government had almost stopped functioning. Because these conditions made it difficult for the state legislature to tax all the inhabitants, it decided to pay its share of the requisition (\$373,598) in supplies to the American army. For these supplies, South Carolina received quartermaster and commissary certificates that it remitted in payment to Superintendent of Finance Robert Morris who had no choice but to accept the certificates. A report of the Confederation Board of Treasury (1 June 1785) reveals that South Carolina was given credit for paying its entire quota, the only state to do so. On the other hand, New York paid only \$52,651 of its share of \$373,598 (or 14.1%). New York ranked ninth among the thirteen states.

11. See at note 1 (above).

12. See note 10 (above).

13. See note 10 (above).

14. Smith is referring to a comment made by Robert R. Livingston earlier that day (RCS:N.Y., 1943).

15. The reference is to the debate on representation in Congress that took place between Smith and Hamilton on 21 June (above).

16. The reference is to Melancton Smith's speech earlier in the day. See Smith's own notes for his speech (RCS:N.Y., 1932).

17. The "celebrated writer" is the Baron de Montesquieu who discussed the size of territory and its relationship to the form of government in his *Spirit of Laws*, I, Book VIII, chapters XVI–XX, 177–81.

18. Latin: a dream.

19. The note taker, Richard Harison, did not indicate who made the following speech. Clearly, however, this is an Antifederalist response to Hamilton's remarks (see especially RCS:N.Y., 1965), not a continuation of them. The likeliest speaker is Melancton Smith.

George Clinton's Remarks on the Taxing Power of Congress, 27 June 1788

George Clinton's speech printed here is transcribed from a copy made for historian George Bancroft in May 1880. The copy is in the George Bancroft Collection in the New York Public Library. The original manuscript of the speech, located in the George Clinton Papers at the New York State Library, was probably destroyed, along with most of Clinton's papers, in the 1911 fire. From his reading of Childs's *Debates* (as printed in Elliot, *Debates*), Bancroft concluded (in marginal notes made in the transcript) that Clinton made his speech primarily in answer to Alexander Hamilton's speeches of 24, 25, and 27 June. The transcripts of two more of Clinton's speeches in the New York Convention are printed below with the debates for 11 and 17 July (RCS:N.Y., 2142-47, 2220-25).

Each one of George Clinton's three speeches might be considered substantial but none of the Convention note takers recorded a lengthy speech for Clinton on 27 June and 11 and 17 July, although Clinton's speeches are relevant to the subjects discussed on those days.

The original manuscript was described by the State Library as difficult to read and the writing as "careless." This resulted in transcription errors that Bancroft questioned in the margins. The librarians then made corrections. These corrections have been incorporated into the transcription below.

Remarks made in the N.Y. State Convention on the power to levy taxes, as granted to Congress by the new Constitution.—

I wish to make a few remarks upon the Clause under consideration, which I am influenced to do from attempts which have been made in the course of the debate to establish principles which appear to me not only to be new but to mislead the mind.

I have before mentioned that I was apprehensive that we expressed from both sides of the Committee a desire to establish a strong energetic federal government and attachments to principles of republicanism that while we agreed in the terms we differed essentially in the principles.

I think it proper on this occasion to declare that when I speak of a strong energetic federal government I mean such an one as is best calculated to preserve the peace and safety of the union and at the same time to secure the freedom and independence of the States. When I speak of a republican Government I mean a government where the will of the people expressed by themselves as representatives is the law, and in the present compound government where part of the powers originate from the people in their moral capacity and part from the States in their political capacity, the will of the component parts expressed in the general government ought to be the law, and that the security of the states and the liberties of the people might depend in

having this will fully and fairly expressed in the public councils.—These are the true principles of a free representative government—if they are not the election of representatives is mere matter of form, and the government is not a government of the people or states but of the few who exercise the powers of it—it may indeed be called a republic for the idea is vague and indefinite and may include an arbitrary aristocracy—It has even been applied to the British Government by some writers.

I have been led to express these Sentiments from observations which have been made on a former occasion and repeated on the present by an Honble Gentm. from N. York [Alexander Hamilton, 24, 25 June] to wit that the Senators ought not to be subject to the recal of the legislatures of the States, because they would be too subject to the influence of local and State prejudices, and be thereby diverted from the pursuit of general interests—this, it is obvious is a doctrine contrary to common reason and the nature of things and every idea we can form of true representation and more especially when applied to the Legislatures of States which being a deliberative body cannot be supposed to be under the sudden impulses of passion and prejudice—nor can they ever for want of information if their representatives in the general legislature do their duty.

The same Honble Gentm. [Alexander Hamilton, 27 June] attempted to establish another principle, to wit, that the only true security the People can have against the undue exercise of powers in the government is derived from its being organized on Representative republican principles and a proper distribution and separation of the legislative judicial and executive branches of power. This at first review is specious and plausible for it must be universally admitted, that much security is derived from this power.

It is therefore the better calculated to lead the mind from the true point of inquiry, to wit, whether the powers of this government are well defined and limited to the proper objects. But, on this head, it will be only necessary to observe that the system itself establishes a different doctrine by express limitations in a variety of instances prohibiting the exercise of certain powers.

For instance

The suspension of the Writ of Habeas Corpus except in certain cases.

The passing of bills of attainder and ex post facto laws.

The creation of a nobility and a variety of other restrictions too tedious to mention.

If the principle advocated by the Honble Gentm. was true in almost any extent, it is obvious that these provisions would have been unnecessary and that after having provided for the organization of the government the distribution of its powers and a very few other objects, the whole system might have been comprised in the few following words, Congress shall have power to provide for the common defence and general welfare and to make all laws which in their judgment may be necessary and proper for these purposes.¹

The subject in debate is whether the power of levying internal taxes ought to be confided to Congress in the first instance, whether a matter so intimately connected with the internal police of the States, a power which might so immediately operate on the property of individuals and so indefinite that it may effect the existence of the States ought in the first place to be confided in so feeble and imperfect a Representation as that in the general government or whether it is not proper to reserve this power to the States except in cases where the delinquency may render their exercise of it in the genl. govt. necessary.

Great pains have been taken on one side to show that the States have concurrent jurisdiction with the genl. govt. [Alexander Hamilton, 27 June] in this instance and this seems in Some measure to be admitted by all. I confess however that with me it is not clearly established. At most it depends upon construction and this too arising from a maxim which has not been adhered to by the framers of the Constitution, that what power is not expressly granted to the genl. govt. is reserved—for if we recur to the system, we will find that in sundry instances there are prohibitions found against the exercise of powers, which would appear to be neither expressly or impliedly granted, particularly in a case I have before mentioned, the creation of a nobility.² This alone would justify a doubt—but admit the principle.

Concurrent Jurisdictions are dangerous—they ought as far as possible to be avoided—they may and in all probability will endanger the peace and harmony of the union. They involve the political absurdity of imperium in imperio,³ so destructive to every idea of good govt.

The Celebrated Lord Coke somewhere observes that certainty is the mother of quiet⁴—It is unwise and dangerous therefore to suffer the fundamental compact to rest upon uncertain constructions, it will not fail to occasion discord between the genl. govt. and its members—and if it should we are told by the gentlemen who oppose the amendmt. that the latter will and must prevail and consequently the union will be dissolved. I submit it therefore to the Committee, whether it will not be wise to avoid so great an evil by rendering the meaning of the

system in this and every other instance, where it may be doubtful, certain and unequivocal and by limiting its powers as far as may be consistent with the general safety to such objects only as will avoid a dangerous and improper interference of State and genl. Authority.

It has been alledged by the Gentlemen opposed to the system that in many instances the genl. and State govt. will have discordant interests. This has been fully admitted by the Gentn. in favor of it in their speeches agt. the amendt. proposed for subjecting the Senators to the recal of the States⁵—for one of the arguments offered against the amendt. was that by rendering them too dependent on the States, it would subject them to state or local views.

This govt. among other things is to form a more perfect union, yet it would appear that its operations might produce discord with its members. It is in my opinion however absurd in the last degree to propose that the states will combine agt. the genl. govt. as long as it is confined to proper objects and preserves the common interest—this would be to propose that the States will conspire to destroy themselves—and it has been added that the people from their attachments will even join them [Alexander Hamilton, 24, 27 June]. I do not believe that either will happen unless provoked by an undue and wicked administration, and should this be the case if the people both in their moral and political capacities should consider the general government as an evil I heartily join the honble. gentl. [Alexander Hamilton, 27 June] in his pious ejaculation and when speaking with respect to the existence of the states Government God forbid that it should then continue to exist against the general will.

For my own part, I lay it down as a certain truth that unless the govt. is so constructed as to harmonize with the State Govts. and persue one common interest, that the system must fail and end in ruin. The best and surest support of a Republican Govt. is the confidence and attachment of the members of which it is composed—if they have clashing interests and interfering powers, this confidence and affection will cease and then if any government exists it must be supported by force and the coercion of the sword.

1. For a similar argument with repetitive phraseology, see Clinton's Speech on 17 July (RCS:N.Y., 2221, at note 2).

2. Although this was a common Antifederalist argument, the point was never made by Federalists that the Articles of Confederation, which specifically prohibited implied powers (Article II), also contained a prohibition against the granting of titles of nobility (CDR, 86, 88).

3. Latin: "A sovereignty within a sovereignty" or "an absolute authority within the jurisdiction of another."

4. *The First Part of the Institutes of the Lawes of England* . . . (London, 1629), Book 5, chapter 5, section 342. The *Institutes* first appeared in 1628.

5. This amendment on the recall of senators was proposed by Antifederalist Gilbert Livingston on 24 June, when leading off the debates on that day (RCS:N.Y., 1838).

Private Commentaries on the Convention, 27 June 1788

De Witt Clinton to Charles Tillinghast
*Poughkeepsie, 27 June 1788*¹

The Convention are now deliberating upon the power of taxation &c. lodged in Congress—amendments have been proposed in the Clauses about Elections and the permitting of Senators and Representatives to possess other offices at the same time and met with little or no opposition. The amendment brought forward as to the paragraph about taxation was proposed yesterday by Mr. Williams ~~and is now under deliberation~~ & is similar to the one recommended by the Conventions of South-Carolina & Massachussets.² Judge Smith opened the debate to day and with his usual good sense proved clearly to persons capable of conviction the dangers resulting to the liberties of the people from the depositing of such essential³ and indefinite powers into the hands of men so little responsible as the Congress under the new Constitution will be. The Convention have not as yet adjourned so that I cannot inform you of the issue of the debates upon this clause, I expect it will take up three or four days of their time. The Republican Members are (to use an expression of the Plebeian)⁴ united as one man, and the terrors thrown out by the Chancellor in his introductory speech⁵ are considered by them with contempt.⁶ (Perhaps I shall be more particular to morrow by the sloops. My best respects to the General &c.)⁷

1. FC, Clinton Papers, NNC-RB. Clinton's letter, with some changes (see notes 3–4, 6–7), was published in the *New York Journal*, 1 July, as an "Extract of a letter from Poughkeepsie, dated June 27, 1788" (Mfm:N.Y.).

2. See Convention Debates, 26 June, note 9 (above).

3. "Essential" was changed to "extensive" in the *New York Journal*.

4. The text in parentheses was omitted in the *New York Journal*. The reference is to the pamphlet *An Address to the People of the State of New York* . . . by "A Plebeian." See RCS:N.Y., 958, for the reference to "united as one man."

5. See the speech of Robert R. Livingston, Convention Debates, 19 June (above).

6. The phrase "are considered by them with contempt" was changed to "have had no manner of effect upon their minds" in the *New York Journal*.

7. The text in angle brackets was not printed in the *New York Journal*.

Samuel Blachley Webb to Catherine Hogeboom
*Poughkeepsie, 27 June 1788 (excerpt)*¹

. . . The Stage is in, and to set of[f] again in half an hour—which will prevent my making any addition of consequence to my letter. we

have been entertained for upwards of two hours this morning by Colonel Hamilton in one of the most elegant Speeches I ever heard, he is indeed one of the most remarkable genius's of the Age, his Political knowledge exceeds I believe, any Man in our Country, and his Oratorical abilities has pleased his friends and surprized his Enemies, excuse the hurry I have written in, present me to your friends with esteem,

[P.S.] I embark from this tomorrow afternoon abo[ut] 4 oClock—

1. RC, Webb Papers, CtY. The first portion of this letter, omitted here, was dated "Thursday Eveng. June 26th, 1788."

The New York Convention Saturday 28 June 1788

Convention Debates and Proceedings, 28 June 1788

ALEXANDER HAMILTON. Mr. Chairman, in the course of these debates, it has been suggested, that the state of New-York has sustained peculiar misfortunes, from the mode of raising revenue by requisitions. I believe we shall now be able to prove, that this state, in the course of the late revolution, suffered the extremes of distress on account of this delusive system. To establish these facts, I shall beg leave to introduce a series of official papers, and resolutions of this state, as evidence of the sentiments of the people, during the most melancholy periods of the war. I shall request the secretary to read these papers,¹ in the order in which I point them out. [Childs, *Debates*, 109]

◆

HAMILTON. Requests several Resolutions & reports from the Journal of the Senate be read—

7 Sept. 1780—part of the Governors Message—

9 Sept. part of the Answer of the Senate

10 Oct. Resolution of Assembly page 33

5th. Feby 1781—and a Letter from Rivingtons Paper—

19 March—

29 March 1781

21 Novr.—1781

20 July—1782 Resolutions— [McKesson's Notes, NHi]

◆

HAMILTON. *Mr. Hamilton in Continuation.*

Refers to several Acts of our Legislature, and Resolutions.

Page 4. Ext[ract] 7th. Sepr. 1780. Govr. Speach. weakness of Requisitions—ought to be more effectual.

Senates answer, approving of his speach.

10 Octr. 1780 Resolutions of the 2 Houses—to vest Congress *during the war* with more ample powers

Page 34. Instructions to the Comiss. at Hartford in Conformity

D[itt]o. 39. 5th. Feby. 1781. Resolutions of 2 Houses. The Letter referred to read from Rivington's News Papers.² Stating the distresses of our State and to be relieved agt. a farther requisition. Evil consists in the defects of the union

9th. march 1781. A message from his Exy. Union compleated 19 March 1780 [i.e., 29 March 1781]

Page 92. Legislature approve of the Proceedings of the Conv: at Hartford.

Page 32. Nov. 21st. 1781 Message or Resolutn. of the Legislature Refers to their approbation of the *impost*.³

Page 89. 90—July 20th. 1782. defective the plan of the genl. Governmt.⁴ [Robert Yates, Notes, DLC]

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GEORGE CLINTON. I presume the introduction of this kind of evidence is occasioned by a conversation I had with one of the gentlemen [James Duane] yesterday. It would have been fair to mention to me, at that time, the intention of bringing these matters forward. Some new lights might then have been thrown on the subject, relative to the particular circumstances, which produced the resolutions alluded to. An opportunity would also have been given, of shewing what the sense of Congress and of this state was, after those circumstances were changed. I believe these resolutions were previous to the accession of all the states to the confederation. I could wish that these matters might be set in a clear point of light. [Childs, *Debates*, 109–10]

CLINTON. These Resolutions tended to remove Evils we suffered during the War—

The Impost I ever wished might be given to Congress—The Members of Committee then in the Legislature were of that opinion and know it was my opinion—

I was of Opinion to give them the Money—but to collect it by our own Officers— [McKesson's Notes, NHi]

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JAMES DUANE. I hope the honorable member [George Clinton] will not suppose that I have dealt unfairly. It is true I had some conversation

with him, yesterday, which led me to a conclusion, that it would be fair and proper, that these papers should be produced. But independently of that conversation, Sir, I should have thought it my duty to bring them forward, because I believe that the melancholy experience of our country ought to have more influence on our conduct, than all the speculations and elaborate reasonings of the ablest men. I trust that this evidence will come home: that it will be felt. I am convinced that our greatest misfortunes originated in the want of such a government, as is now offered to us. I assure the gentleman, that the conversation I had with him yesterday was not the cause of bringing these papers into view. I declare that, if I know my own heart, I have no intention of acting uncandidly. [Childs, *Debates*, 110]

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DUANE. I request the Honorable Member [George Clinton] to inform the Committee whether [McKesson's Notes, NHi]

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GEORGE CLINTON. I do not mean to create any dispute respecting the subject of these resolutions. I did inform the gentleman [James Duane], that there were several papers which would throw light on this question. All I say is, it would have been fair to produce all of them together, that the committee might not be deceived by a partial statement. I observed that all these resolutions were at a period antecedent to the completion of the union; when Congress had no power at all. The gentlemen are mistaken, if they suppose I wish to prevent the reading of them. [Childs, *Debates*, 110]

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JAMES DUANE. I believe we shall find that there are resolutions subsequent, as well as antecedent, to the completion of the confederation.⁵ This we shall endeavor to shew. I am clear, Sir, that these exhibits will furnish more effectual arguments, than all that can be said. But I shall not enlarge. The papers will speak for themselves. [Childs, *Debates*, 110]

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MELANCTON SMITH. I shall not oppose the reading of any papers, the gentlemen may think proper to produce. But we shall reserve to ourselves the privilege of giving what we think to be the true explanation of them. [Childs, *Debates*, 110]

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ALEXANDER HAMILTON. We shall make the same reservation. By the indisputable construction of these resolutions, we shall prove that this

state was once on the verge of destruction, for want of an energetic government. To this point we shall confine ourselves. [Childs, *Debates*, 110]

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THOMAS TREDWELL. It appears to me useless to read these papers. If I understand the matter, they are produced to prove a point which is not contested.—It is on all hands acknowledged, that the federal government is not adequate to the purposes of the union. [Childs, *Debates*, 110]

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CONVENTION PROCEEDINGS. The papers were then read by the secretary, in the following order.—1st. An extract from Governor Clinton's speech to the legislature, September 7, 1780.⁶—2d. Extract from the answer of the senate, September 9, 1780.⁷—3d. Resolve of the assembly, October 10, 1780.⁸—4th. Resolve of both houses, October 10, 1780, respecting the Hartford convention.⁹—5th. A letter from the legislature of New-York to Congress, dated Albany, February 5, 1781, describing the distresses of the state.¹⁰ 6th. A message from the Governor to the legislature, March 9, 1781, announcing the establishment of the confederation.¹¹—7th. Resolve of the legislature, dated March 29, 1781, relative to the Hartford convention.¹²—8th. Resolve of the legislature, November 21, 1781, recommending a five per cent. impost.¹³—9th. A resolution of 20th July, 1782, lamenting the want of powers in Congress, and pointing out the defects of the confederation.¹⁴ [Childs, *Debates*, 110–11]

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GEORGE CLINTON. After these papers were read, Governor *Clinton* rose and observed, that there could be no doubt that the representations made in them were true; and that they clearly expressed the sentiments of the people at those periods. Our severe distresses, he said, naturally led us into an opinion, that the confederation was too weak. It appears to me, the design of producing these papers is something more than to shew the sentiments of the state, during the war—that it is to prove, that there now exists an opposition to an energetic government. I declare solemnly, that I am a friend to a strong and efficient government. But, Sir, we may err in this extreme: We may erect a system, that will destroy the liberties of the people. Sir, at the time some of these resolves were passed, there was a dangerous attempt to subvert our liberties, by creating a supreme dictator.¹⁵ There are many gentlemen present, who know how strongly I opposed it. My opposition was at the very time we were surrounded with difficulties and danger. The

people, when wearied with their distresses, will, in the moment of frenzy, be guilty of the most imprudent and desperate measures. Because a strong government was wanted during the late war, does it follow, that we should now be obliged to accept of a dangerous one? I ever lamented the feebleness of the confederation, for this reason, among others, that the experience of its weakness would one day drive the people into an adoption of a constitution dangerous to our liberties. I know the people are too apt to vibrate from one extreme to another. The effects of this disposition are what I wish to guard against. If the gentlemen can shew me that the proposed constitution is a safe one; I will drop all opposition. The public resolves, which have been read to you, are only expressive of the desire that once prevailed, to remove present difficulties. A general impost was clearly intended: but it was intended as a temporary measure. I appeal to every gentleman present, if I have not been uniformly in favour of granting an impost to Congress. I confess, the manner in which that body proposed to exercise the power, I could not agree to. I firmly believed that if it were granted in the form recommended, it would prove unproductive, and would also lead to the establishment of dangerous principles. I believed that granting the revenue, without giving the power of collection or a controul over our state officers, would be the most wise and prudent measure.¹⁶ These are and ever have been my sentiments. I declare that, with respect to the papers which have been read, or any which I have in my possession, I shall be ready to give the committee all the information in my power. [Childs, *Debates*, 111]

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JAMES DUANE. As I am sensible the gentleman last on the floor was in the confidence of the commander in chief;¹⁷ I would wish to ask, if he did not at different times receive communications from his excellency, expressive of this idea, that if this state did not furnish supplies to the army, it must be disbanded. [Childs, *Debates*, 112]

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GEORGE CLINTON. It is true, Sir, I have received such communications more than once. I have been sent for, to attend councils of war, where the state of the army was laid before me; and it was melancholy indeed. I believe that, at one period, the exertions of this state, in impressing flour from the people, saved the army from dissolution. [Childs, *Debates*, 112]

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ALEXANDER HAMILTON. The honorable gentleman from Ulster [George Clinton] has given a turn to the introduction of those papers, which was never in our contemplation. He seems to insinuate that they

were brought forward, with a view of shewing an inconsistency in the conduct of some gentlemen—perhaps of himself. Sir, the exhibition of them had a very different object. It was to prove that this state once experienced hardships and distresses to an astonishing degree, for want of the assistance of the other states. It was to shew the evils we suffered since, as well as before the establishment of the confederation, from being compelled to support the burthen of the war; That requisitions have been unable to call forth the resources of the country; That requisitions have been the cause of a principal part of our calamities; that the system is defective and rotten, and ought forever to be banished from our government. It was necessary, with deference to the honorable gentleman, to bring forward these important proofs of our argument, without consulting the feelings of any man.

That the human passions should flow from one extreme to another, I allow is natural.—Hence the mad project of creating a dictator.—But it is equally true, that this project was never ripened into a deliberate and extensive design. When I heard of it, it met my instant disapprobation.¹⁸ The honorable gentleman's [George Clinton's] opposition too is known and applauded. But why bring these things into remembrance? Why affect to compare this temporary effusion with the serious sentiments our fellow citizens entertained of the national weaknesses? The gentleman has made a declaration of his wishes for a strong federal government. I hope this is the wish of all. But why has he not given us his ideas of the nature of this government, which is the object of his wishes? Why does he not describe it? We have proposed a system, which we supposed would answer the purposes of strength and safety—The gentleman objects to it, without pointing out the grounds, on which his objections are founded, or shewing us a better form. These general surmises never lead to the discovery of truth. It is to be desired, that the gentleman would explain particularly the errors in this system, and furnish us with their proper remedies. The committee remember that a grant of an impost to the United States, for twenty-five years, was requested by Congress. Though this was a very small addition of power to the federal government, it was opposed in this state, without any reasons being offered.¹⁹ The dissent of New-York and Rhode-Island frustrated a most important measure.²⁰ The gentleman says, he was for granting the impost; yet he acknowleges, he could not agree to the mode recommended. But it was well known, that Congress had declared, that they could not receive the accession of the states, upon any other plan than that proposed. In such case, propositions for altering the plan amounted to a positive rejection. At this time, Sir, we were told it was dangerous to grant powers to Congress—Did this general

argument indicate a disposition to grant the impost in any shape? I should myself have been averse to the granting of very extensive powers: But the impost was justly considered as the only means of supporting the union.—We did not then contemplate a fundamental change in government. From my sense of the gentlemen's integrity, I am bound to believe, that they are attached to a strong united government; and yet I find it difficult to draw this conclusion from their conduct or their reasonings.

Sir, with respect to the subject of revenue, which was debated yesterday, it was asserted that in all matters of taxation, except in the article of imposts, the united and individual states had a concurrent jurisdiction; that the state governments had an independent authority, to draw revenues from every source but one. The truth of these positions will appear on a slight investigation. I maintain, that the word *supreme* imports no more than this; that the constitution, and laws made in pursuance thereof, cannot be controuled or defeated by any other law. The acts of the United States therefore will be absolutely obligatory, as to all the proper objects and powers of the general government. The states as well as individuals are bound by these laws—But the laws of Congress are restricted to a certain sphere, and when they depart from this sphere, they are no longer supreme or binding. In the same manner the states have certain independent powers, in which their laws are supreme: For example, in making and executing laws concerning the punishment of certain crimes, such as murder, theft, &c. the states cannot be controuled. With respect to certain other objects, the powers of the two governments are concurrent, and yet supreme. I instanced, yesterday, a tax on any specific article. Both might lay the tax; both might collect it without clashing or interference. If the individual should be unable to pay both, the first seizure would hold the property. Here the laws are not in the way of each other; they are independent and supreme.—The case is like that of two creditors: Each has a distinct demand; the debtor is held equally for the payment of both. Their suits are independent; and if the debtor cannot pay both, he who takes the first step, secures his debt. The individual is precisely in the same situation, whether he pays such a sum to one, or to two. No more will be required of him to supply the public wants, than he has ability to afford. That the states have an undoubted right to lay taxes in all cases in which they are not prohibited, is a position founded on the obvious and important principle in confederated governments, that whatever is not expressly given to the federal head, is reserved to the members. The truth of this principle must strike every intelligent mind. In the first formation of government by the association of individuals, every power

of the community is delegated, because the government is to extend to every possible object; Nothing is reserved, but the unalienable rights of mankind: But when a number of these societies unite for certain purposes, the rule is different, and from the plainest reason: They have already delegated their sovereignty, and their powers to their several governments; and these cannot be recalled, and given to another, without an express act. I submit to the committee whether this reasoning is not conclusive. Unless therefore we find that the powers of taxation are exclusively granted, we must conclude, that there remains a concurrent authority. Let us then enquire if the constitution gives such exclusive powers to the general government. Sir, there is not a syllable in it, that favours this idea;—Not a word importing an exclusive grant, except in the article of imposts. I am supported in my general position, by this very exception. If the states are prohibited from laying duties on imports, the implication is clear. Now, what proportion will the duties on imports bear to the other ordinary resources of the country? We may now say, one third; but this will not be the case long. As our manufactures increase, foreign importations must lessen. Here are two thirds at least of the resources of our country open to the state governments. Can it be imagined then, that the states will lose their existence or their importance for want of revenues? The propriety of Congress possessing an exclusive power over the impost appears from the necessity of their having a considerable portion of our resources, to pledge as a fund for the reduction of the debts of the United States. When you have given a power of taxation to the general government, none of the states individually will be holden for the discharge of the federal obligations: The burthen will be on the union.

The gentleman [Melancton Smith] says, that the operation of the taxes will exclude the states, on this ground, that the demands of the community are always equal to its resources; that Congress will find a use for all the money the people can pay. This observation, if designed as a general rule, is in every view unjust.—Does he suppose the general government will want all the money the people can furnish; and also that the state governments will want all the money the people can furnish? What contradiction is this? But if this maxim be true, how does the wealth of a country ever increase? How are the people enabled to accumulate fortunes? Do the burthens regularly augment, as its inhabitants grow prosperous and happy.—But if indeed all the resources are required for the protection of the people, it follows that the protecting power should have access to them. The only difficulty lies in the want of resources: If they are adequate, the operation will be easy:—If they are not, taxation must be restrained: Will this be the fate of the state

taxes alone? Certainly not—The people will say no—What will be the conduct of the national rulers? The consideration will not be, that our imposing the tax will destroy the states, for this cannot be effected; but that it will distress the people, whom we represent, and whose protectors we are.—It is unjust to suppose that they will be altogether destitute of virtue and prudence: It is unfair to presume that the representatives of the people will be disposed to tyrannize, in one government more than in another. If we are convinced that the national legislature will pursue a system of measures unfavorable to the interests of the people, we ought to have no general government at all. But if we unite, it will be for the accomplishment of great purposes: These demand great resources, and great powers. There are certain extensive and uniform objects of revenue, which the United States will improve, and to which, if possible they will confine themselves. Those objects which are more limited, and in respect to which, the circumstances of the states differ, will be reserved for their use: A great variety of articles will be in this last class of objects, to which only the state laws will properly apply. To ascertain this division of objects is the proper business of legislation: It would be absurd to fix it in the constitution, both because it would be too extensive and intricate, and because alteration of circumstances must render a change of the division indispensable. Constitutions should consist only of general provisions: The reason is, that they must necessarily be permanent, and that they cannot calculate for the possible changes of things. I know that the states must have their resources; but I contend that it would be improper to point them out particularly in the constitution.

Sir, it has been said [by John Williams] that a poll-tax is a tyrannical tax: But the legislature of this state can lay it, whenever they please. Does then our constitution authorize tyranny? I am as much opposed to a capitation, as any man: Yet who can deny, that there may exist certain circumstances, which will render this tax necessary. In the course of a war, it may be necessary to lay hold of every resource; and, for a certain period, the people may submit to it. But on removal of the danger, or the return of peace, the general sense of the community would abolish it. The United Netherlands were obliged, on an emergency, to give up one twentieth of their property to the government.²¹ It has been said, that it will be impossible to exercise this power of taxation: If it cannot be exercised, why be alarmed at it? But the gentlemen say that the difficulty of executing it with moderation will necessarily drive the government into despotic measures. Here again they are in the old track of jealousy and conjecture. Whenever the people feel the hand of despotism, they will not regard forms and parchments.

But the gentlemen's premises are as false as their conclusion. No one reason can be offered, why the exercise of the power should be impracticable: No one difficulty can be pointed out, which will not apply to our state governments. Congress will have every means of knowledge, that any legislature can have. From general observation, and from the revenue systems of the several states, they will derive information as to the most eligible modes of taxation. If a land tax is the object, cannot Congress procure as perfect a valuation as any other assembly? Can they not have all the necessary officers for assessment and collection? Where is the difficulty? Where is the evil? They never can oppress a particular state, by an unequal imposition; because the constitution has provided a fixed ratio, a uniform rule, by which this must be regulated.²² The system will be founded upon the most easy and equal principles—to draw as much as possible from direct taxation; to lay the principal burthens on the wealthy, &c. Even ambitious and unprincipled men will form their system so, as to draw forth the resources of the country in the most favorable and gentle methods; because such will be ever the most productive. They never can hope for success, by adopting those arbitrary modes, which have been used in some of the states.

A gentleman [Melancton Smith] yesterday passed many encomiums on the character and operations of the state governments. The question has not been, whether their laws have produced happy or unhappy effects: The character of our confederation is the subject of our controversy. But the gentleman concludes too hastily. In many of the states, government has not had a salutary operation. Not only Rhode-Island, but several others have been guilty of indiscretions and misconduct—of acts, which have produced misfortunes and dishonor. I grant that the government of New-York has operated well; and I ascribe it to the influence of those excellent principles, in which the proposed constitution and our own are so congenial. We are sensible that private credit is much lower in some states, than it is in ours. What is the cause of this? Why is it at the present period, so low even in this state? Why is the value of our land depreciated? It is said there is a scarcity of money in the community: I do not believe this scarcity to be so great, as is represented. It may not appear; It may be retained by its holders; but nothing more than stability and confidence in the government is requisite to draw it into circulation. It is acknowledged that the general government has not answered its purposes. Why? We attribute it to the defects of the revenue system. But the gentlemen say, the requisitions have not been obeyed, because the states were impoverished. This is a kind of reasoning that astonishes me. The records of this state—the

records of Congress prove that, during the war, New-York had the best reason to complain of the non-compliance of the other states. I appeal to the gentlemen—Have the states, who have suffered least, contributed most? No sir—the fact is directly the reverse. This consideration is sufficient entirely to refute the gentlemen’s reasoning. Requisitions will ever be attended with the same effects. This depends on principles of human nature, that are as infallible as any mathematical calculations. States will contribute or not, according to their circumstances and interests: They will all be inclined to throw off the burthens of government upon their neighbours. These positions have been so fully illustrated and proved in former stages of this debate, that nothing need be added. Unanswerable experience—stubborn facts have supported and fixed them. Sir, to what situation is our Congress now reduced! It is notorious, that with the utmost difficulty they maintain their ordinary officers, and support the mere form of a federal government. How do we stand with respect to foreign nations? It is a fact, that should strike us with surprize and with shame, that we are obliged to borrow money, in order to pay the interest of our debts.²³—It is a fact, that these debts are every day accumulating by compound interest. This, sir, will one day endanger the peace of our country, and expose us to vicisitudes the most alarming. Such is the character of requisitions; Such the melancholy, dangerous condition, to which they have reduced us. Now, sir, after this full and fair experiment, with what countenance do gentlemen come forward, to recommend the ruinous principle, and make it the basis of new government? Why do they affect to cherish this political demon, and present it once more to our embraces? The gentleman [Melancton Smith] observes, that we cannot, even in a single state, collect the whole of a tax; Some counties will necessarily be deficient: In the same way, says he, some states will be delinquent. If this reasoning were just, I should expect to see the states pay, like the counties, in proportion to their ability; which is not the fact.

I shall proceed now more particularly to the proposition before the committee.²⁴ This clearly admits, that the unlimited power of taxation, which I have been contending for, is proper. It declares that after the states have refused to comply with the requisitions, the general government may enforce its demands. While the gentlemen’s proposal admits my principle, in its fullest latitude, the whole course of their argument is against it. The mode they point out would involve all the inconveniences, against which they would wish to guard. Suppose the gentlemen’s scheme should be adopted; would not all the resources of the country be equally in the power of Congress? The states cannot have but one opportunity of refusal. After having passed through the empty

ceremony of a requisition, the general government can enforce all its demands, without limitation or resistance. The states will either comply, or they will not. If they comply, they are bound to collect the whole of the tax from the citizens. The people must pay it. What then will be the disadvantage of its being levied and collected by Congress, in the first instance? It has been proved, as far as probabilities can go, that the federal government will, in general, take the laws of the several states as its rule, and pursue those measures, to which the people are most accustomed. But if the states do not comply, what is the consequence? If the power of compulsion be a misfortune to the states, they must now suffer it, without opposition or complaint. I shall shew too, that they must feel it in an aggravated degree. It may frequently happen, that, though the states formally comply with the requisitions, the avails will not be fully realized by Congress: The states may be dilatory in the collection and payment, and may form excuses for not paying the whole: There may be also partial compliances, which will subject the Union to inconveniences. Congress therefore in laying the tax will calculate for these losses and inconveniences: They will make allowances for the delays and delinquencies of the states, and apportion their burthens accordingly: They will be induced to demand more than their actual wants. In these circumstances the requisitions will be made upon calculations in some measure arbitrary. Upon the constitutional plan, the only enquiry will be—how much is actually wanted; and how much can the object bear, or the people pay? On the gentlemen's scheme, it will be—what will be the probable deficiencies of the states? for we must increase our demands in proportion, whatever the public wants may be, or whatever may be the abilities of the people. Now suppose the requisition is totally rejected, it must be levied upon the citizens, without reserve. This will be like inflicting a penalty upon the states: It will place them in the light of criminals. Will they suffer this? Will Congress presume so far?—If the states solemnly declare they will not comply, does not this imply a determination not to permit the exercise of the coercive power? The gentlemen cannot escape the dilemma, into which their own reasoning leads them. If the states comply, the people must be taxed; If they do not comply, the people must equally be taxed: The burthen, in either case, will be the same; the difficulty of collecting the same. Sir, if these operations are merely harmless and indifferent, why play the ridiculous farce? If they are inconvenient, why subject us to their evils? It is infinitely more eligible, to lay a tax originally, which will have uniform effects throughout the Union; which will operate equally and silently. The United States will then be able to ascertain their resources, and to act with vigor and

decision: All hostility between the governments will be prevented: The people will contribute regularly and gradually, for the support of government; and all odious, retrospective enquiries will be precluded.

But, the ill effects of the gentlemen's plan do not terminate here. Our own state will suffer peculiar disadvantages from the measure. One provision in the amendment is, that no direct taxes shall be laid till after the impost and excise shall be found insufficient for the public exigencies; and that no excise shall be laid on articles of the growth or manufacture of the United States. Sir, the favorable maritime situation of this state, and our large and valuable tracts of unsettled land, will ever lead us to commerce and agriculture as our proper objects. Unconfined, and tempted by the prospect of easy subsistence and independence, our citizens, as the country populates, will retreat back, and cultivate the western parts of our state. Our population, though extensive, will never be crowded, and consequently we shall remain an importing and agricultural state. Now, what will be the operation of the proposed plan?—The general government, restrained by the constitution from a free application to other resources, will push imposts to an extreme. Will excessive impositions on our commerce be favorable to the policy of this state? Will they not directly oppose our interests? Similar will be the operation of the other clause of the amendment, relative to excise. Our neighbours not possessed of our advantages for commerce and agriculture, will become manufacturers: Their property will, in a great measure, be vested in the commodities of their own production: But a small proportion will be in trade, or in lands. Thus, on the gentlemen's scheme, they will be almost free from burthens, while we shall be loaded with them. Does not the partiality of this strike every one? Can gentlemen, who are laboring for the interest of their state, seriously bring forward such propositions? It is the interest of New-York, that those articles should be taxed, in the production of which, the other states exceed us. If we are not a manufacturing people, excises on manufactures will ever be for our advantage. This position is indisputable. Sir, I agree, that it is not good policy to lay excises to any considerable amount, while our manufactures are in their infancy—but are they always to be so? In some of the states, they already begin to make considerable progress. In Connecticut such encouragement is given, as will soon distinguish that state. Even at the present period, there is one article, from which, a revenue may very properly be drawn: I speak of ardent spirits. New-England manufactures more than a hundred gallons to our one—consequently, an excise on spirits at the still-head would make those states contribute in a vastly greater

proportion than ourselves. In every view, excises on domestic manufactures would benefit New-York. But the gentlemen would defeat the advantages of our situation, by drawing upon us all the burthens of government. The nature of our union requires, that we should give up our state impost: The amendment would forfeit every other advantage. This part of the constitution should not be touched. The excises were designed as a recompence to the importing states, for relinquishing their imposts. Why then should we reject the benefits conferred upon us? Why should we run blindly against our own interest?

Sir, I shall no further enlarge on this argument—My exertions have already exhausted me. I have persevered, from an anxious desire to give the committee the most complete conception of this subject. I fear however, that I have not been so successful, as to bestow upon it that full and clear light, of which it is susceptible. I shall conclude with a few remarks, by way of apology. I am apprehensive, Sir, that in the warmth of my feelings, I may have uttered expressions, which were too vehement. If such has been my language, it was from the habit of using strong phrases to express my ideas; and, above all, from the interesting nature of the subject. I have ever condemned those cold, unfeeling hearts, which no object can animate. I condemn those indifferent mortals, who either never form opinions, or never make them known. I confess, Sir, that on no subject, has my breast been filled with stronger emotions, or more anxious concern. If any thing has escaped me, which may be construed into a personal reflection, I beg the gentlemen, once for all, to be assured, that I have no design to wound the feelings of any one who is opposed to me. While I am making these observations, I cannot but take notice of some expressions, which have fallen, in the course of the debate. It has been said, that ingenious men may say ingenious things, and that those, who are interested in raising the few upon the ruins of the many, may give to every cause an appearance of justice. I know not whether these insinuations allude to the characters of any, who are present, or to any of the reasonings in this house. I presume that the gentlemen would not ungenerously impute such motives to those, who differ from themselves. I declare, I know not any set of men who are to derive peculiar advantages from this constitution. Were any permanent honors or emoluments to be secured to the families of those who have been active in this cause, there might be some ground for suspicion. But what reasonable man, for the precarious enjoyment of rank and power, would establish a system, which would reduce his nearest friends and his posterity to slavery and ruin? If the gentlemen reckon me among the obnoxious few; If they imagine, that

I contemplate, with an ambitious eye, the immediate honors of the government; yet, let them consider, that I have my friends—my family—my children, to whom the ties of nature and of habit have attached me. If, to day, I am among the favoured few; my children, to-morrow, may be among the oppressed many: These dearest pledges of my patriotism may, at a future day, be suffering the severe distresses, to which my ambition has reduced them. The changes in the human condition are uncertain and frequent. Many, on whom fortune has bestowed her favours, may trace their family to a more unprosperous station; and many who are now in obscurity, may look back upon the affluence and exalted rank of their ancestors. But I will no longer trespass on your indulgence. I have troubled the committee with these observations, to shew that it cannot be the wish of any reasonable man, to establish a government unfriendly to the liberties of the people. Gentlemen ought not then to presume, that the advocates of this constitution are influenced by ambitious views—The suspicion, Sir, is unjust; the charge is uncharitable.²⁵ [Childs, *Debates*, 112–19]

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HAMILTON. These Resolutions were introduced to shew that it was the Settled opinion of the Legislature as well before as after the Confederation that the Powers of Congress were inadequate—

Mentioning the Subject of a Dictator was not necessary—

The Gent. says he is for an *energetic federal Govt*—what is it

If what we Contend for by this System—

A Measure of Impost was once passed in this State—but afterwards frustrated by this State and Rhode Island—

This failed in the State because not granted as Congress required—

It was objected that it was not proper to grant any Very Extensive Power to Congress—

Since the *New System* is proposed the Ground is changed

now it tho't best to encrease and Improve the old System—

These things do not in my Mind Comport

Yesterday—

1 That it is a republican System and the powers so divided that of

2d. The Genl. Govt. never could have an Intention to destroy

That the States had sufficient Power to resist

That there was a concurrent Jurisdiction (except Imposts[])

That the word *Supreme* does not

Supreme can only mean that those Laws cannot be changed by Superior Power—The Laws of the Individual States as to taxes will also be *Supreme*

Must be so adjudged in every Court—

No necessity that the one should controul the other

Ex gr. [i.e., e.g.] A Man indebted to two Creditors—he must pay both—the Creditor who takes the first Steps

Every Power not delegated to the United States, rests with the respective States—

When you give Genl. Legislative Powers to Govt. all Powers not reserved are Given (except the unalienable Rights of Mankind[])—

This must remain with the State Govt. unless such are given away to the Genl Govt—Nothing can be taken away but what is granted to the Genl Govt.

Is the Power of Taxation taken away—No—

Is an exclusive Grant of Taxation given (except on Imports) No—

There might be another Method—as that of Naturalization

That by Construction would give an Exclusive Right—

Neither of these three modes are taken—

This is a concurrent Jurisdiction and the Genl. Govt. & State Govt. may tax the Same thing (except Imports) otherwise why are imports excepted.

Therefore the States have every power of Taxation (except on Imports)

Suppose Imports one third—The States have two thirds open to them but not Exclusively so—

The Duties on Imports were necessarily given to the united State[s] for uniformity—

The States should yield to them a great part of the Resources of the Community to discharge a large Debt—

When the United State[s] Debts are discharged the Expenditure of each State will be Small—

It is wise to leave open to the Genl. Govt the general Resources as they must be the General Paymaster—

If there are not resources for all what will be the Conduct of the Genl Governmt.

They will be destitute of prudence or they will defeat themselves—

They must provide for the most urgent Necessity—The[y] must Satisfy their in part but not Totally—

If they render themselves Odious to the People they defeat themselves but not the State Governmts.

The State Govts. can lay their Taxes with equal Authority

In practice it will be this—

They lay Taxes on Such Objects as will be equally taxable in all the States, and will apply thro all the States equally—

There will be an infinite Variety of Objects in the respective State Govts.

As to Houses and Lands Generally if taxed by the Genl Govt. it will be according to the Quantity—It may also bear a State Tax

One object only fix for State Taxes vizt. Personal Estate

Then why not Separate these things and leave them to the State Govts.

Answer—because in Times of War these things may be necessarily Taxed by the Genl. Govt.

If men sent to the Genl Govt. are to be Harpies and Vultures but if to [be] considered as men of prudence attached

A Poll Tax has been objected to [by John Williams]—This State has that Power—is it therefore a Tyrannical Govt. May not Cases happen in War or Otherwise as to make a poll Tax necessary—Exigencies may arise in which it will [be] indispensibly necessary

Holland

It is said it will be impracticable to Execute it—

Then why is [it] unsafe to give if it cannot be exercised

No reason given why it cannot be exercised—

A Man in a National Govt. can compute what Taxes on Consumption Articles will bear—They can assess Lands—Can they not employ our own Supervisors for that purpose—

If the Money is wanted and can be raised is [it] not better to give the Power and raise than to accumulate Debts—

They cannot oppress One State more than Another because there is a Rule²⁶—

It will operate Salutarly and with Caution and lay their Taxes on Luxuries—And draw what they can from indirect Taxation—

It is their Interest to do this because they will not render themselves Odious—This is Com Sense—and necessary to a Support of their Power—

The State Govts. can go further in Experiments. in Taxation

This Power is practicable and will operate in a Salutory Manner

The Gent [Melancton Smith] yesterday entered into a Eulogium on our State Govts.

This is not to the point if true—

But the whole States Govt. have not operated well—Rhode Island has not operated well—

In Our State Govt. has operated tollerably—

but why so little Credit—why Lands depreciated—why no Money lent

But if the State Govts. operate well what is that to the operat of the Genl Govt. which it is admitted do not

It is to shew that in Time when the Embarrasmts are removed they will comply with requisitions—

the Facts are otherwise—the Resolutions read contradict it—

The States who suffered most by the war have paid most and best complied—

The States having the Power of Deliberation wish to save themselves A State pressed with War will exert themselves and Comply—

New Hampshire So. Carolina²⁷ & Georgia have paid almost nothing—This State and Pensylvania paid almost all that is paid—

Congress can scarcely pay their officers & keep up a Shaddow of Govt.

They are now negotiating a Loan to pay Interest—is this right in time of Peace—

This is the History of Requisitions—They have not contributed any thing in proportion to each other even where they have contributed

Now Proposition before the House²⁸

Insert it

The Proposition admits in its full force that an unlimited Power of Taxation is necessary in the Genl. Govt.

If the State Govts. are not able to supply the Genl Govt. and Support the State Govts. it comes to the same Thing—for by the Amendmt. the Genl Govt. is finally to tax & Collect—

More likely to be less Burthensome in the Genl Govt. than in the State Govts.

If the Genl. Govt. regulate by requisition they only demand in sums all they want

If they Tax—they will consider what Tax any Article can bear—If the Article can[n]ot bear it—They will tax Less—

When Several States have not complied will congress fix a Stigma And Collect by force. No—

The others who are willing will distress themselves—

Some of the States are so much in Debt that they cannot pay—A compromise must be made—

Georgia offers Lands for her specie Requisition and a further Sum—She is a Bankrupt—The Lands must be accepted and her Debt cancelled²⁹—

If a War happens the like will happen again—We have paid but what we have paid too much we must loose—

It is better to loose the Debt than enforce payment by war and blood—

This State will be one of the Contributing and loosing States and therefore

Another Argumt.—No Excise on the Growth or manufacture of any State—We are a navigating State—We have a Western Territory—Our Surpluss population will improve that—We shall be carriers and proceed in Agriculture—

When the Merchant pays the Tax the loss is a loss to the State—

New England full of people—Are manufacturers—That object will encrease with them—

It is our Interest to have excises laid on manufactures—

A Duty may be laid at the Still Head on Ardent Spirits—

New England manufactures much more than our State—

Pensylvania manufactures many things more than us—

Connecticut is improving manufactures—

Therefore we should Consent to Excise as it will relieve us—

Virginia as an Importing State tho't that Excise would operate on them Injuriouly—

It would be an impolitic Restriction—we should suffer by it—

The Power may be safely Trusted to the Genl Govt. They exercise it prudently—If not trusted to them this State will Suffer and be un-
equally taxed—

Conclude

An Appology for myself—I have used Strong Expressions—I am much Interested in this Constitution It is owing to my Earnestness and used to Strong Expressions—I mean not to hurt the feelings of any Gentlemen—

A Gent said (Mr. Williams) something about artful Cunning or ambitious Men—

If this was a constitution that would establish a Nobility an Ambitious Man would have temptations—

But what can any man hope from a Govt. depending on the Suffrages of the People

Men must not only be considered as designing and Ambitious but also with affection or Attention to his posterity—

It cannot be the wish of a rational Man who considers the Vicisitudes of Human Life to establish a Tyranny— [McKesson's Notes, NHi]



HAMILTON. The Gent. of Ulster [George Clinton] seems to suspect they were intr[oduce]d to shew inconsistency.—

The papers read, to prove the distress this State suffered—the inefficacy of Requisition.—the sents. of the Legislar—Dictator the ebullition of ardent

what is energetic fedl. govt—one operatg. on States—or individs—
 Impost once passed³⁰—then refused—afterwds. defeated—his opn. al-
 ways for it—takes it for granted—but opposed in manner asked—The
 opinion then was—Congress ought not to have power assumed—now
 it is said, the Congress ought to have had addl. powers—at a loss, to
 reconcile the opposn—

End[eavore]d yesterday, to establish several princ[iple]s—

1. That this govt. is a Republic, wt. all the characterics of one.

2. Infered from it safely trusted, and no danger of their inj[urin]g
 the State govt—could have no view, and the States wd. have means to
 resist—

3d. The right of taxes concurrent—

The word supreme, means the act cant be cont[rolle]d by the act of
 no other—

The acts of US—so also that of the States—

This could take place—one penny in the p[oun]d be each—

the govt. taking the first step wd. be rew[arde]d—

The thing [pracl.?] by exper—like the case of 2 Creds—the first
 cr[edito]r take the Step—recov[er]s—

The [enqy.?] will be in a situ[atio]n—the same as if in one or
 both—

The principle, all powers not granted, reserved—as a portion of sov-
 erigns

When you give general Legise. powers to States—none reserved, but
 such as is reserv'd and unalienable rights—

1—The rule difft. as appld. to States difft.—because the sovereignt-
 ies already given—therefore all not taken away remains—

not a word, that the power is exclusive [theirs?]

2—another when a power is given to one and by another clause
 taken by another

3. A power may be given, wch. it is physically impossible both can
 exercise—uniform naturln—by implication—neither of these apply to
 the matter of taxation—no direct inconsistency—

if willing to give it this explanation—

The consequence is all sources of Revenue—open but imposts—

this but $\frac{1}{3}$ — $\frac{2}{3}$ open to both—

Can it be doubted, they will be supp[orte]d—when $\frac{2}{3}$ of the Revenue
 opened—

The demands for the present considerable—

Sources of Revenue must be left—

Soon will be small—

We are forming a govt. for posterity—

It is wise to give the genl. govt.

admitted that the wants of a commy. are equal to its resources—If the resources are equal then the difficulty cant happen—If not to happen—the primary objects—the State govt—and general govt—these objects must be sati[sfie]d—then if beyond ability they cant be provided for wt. oppress—absurd that the Represves. of one will oppress more than [the] other—if we cant pay all—pay as much as we can—this will be the reason—the people represented in that govt—

The natl. opera[tio]n will be mutual forbearance—if they do not—the State govts—can defeat them—equal authority—more confidence of the people—Gent. carry their [argument] too far—it will operate thus—

The Govt. will take par[тику]l[ar] objects—such as will operate to make the tax equal—Sufft. objects will remain in the several States—not of general—many things that the States can legislative upon—that the general—

One object, will be left to the States—taxing by the Lump—

Why not sepearate—answer—because though this may be the case—in war it may be necssy.—

If we suppose the men delegated to be vultures not worthy of confidence—this reason no wt. but conclusive—The State has a right to lay a poll Tax—are they tyrants—

Mr Haml. again[st] a poll tax, but may be necessary—Holland gave once part—

It is sd. impossible to exercise the power—

concludes that it is safe, if impossible—

But it may be sd. exercise it despotically—

If they will exercise despotism—

The general govt. may lay a tax, on consump[ti]on.—on Land by commrs. to value

on assessment, as the State do—

not bound, to vary—because they must lay the tax by a rule—

It will render it necessary to act wt. caution—must tax Luxeries—lest they disoblige the com. people—

If they are prudent, they will make reg[ulatio]ns the least oppressive—

The power in the gen. govt. will operate to make taxes equal and least oppressive—

An eulogium on State govts.—not the questn—the States have been not so well as is pret[ende]d—other States have done ill—credit is low—lands deprec'd—50 ~~¢~~ Ct—admitted, that will be cured—what has this to do wt. gen. govermt—Intended to induce a beleif, the States

will comply wt. requisitions, if circumstances—what has happd. since peace—Some States wch. felt most by the war, contrd. most since—

defalcation in Requin—owing to deliber[n]—to parl. charactrs—influence—In every war those near the seat of the war—N. hampshire pd. nothing—N. Carolina—nothing—did not suffer by the war—Congress with great difficulty support their officers—

Ever since the peace borrowed to pay, the Interest loaned—

The States do not contribute in proportion—The prop[ositio]n admits an uld. power—involves the same Conseqs.—because if it demands more than is suff. to both—more likely to exist under the amendment than under the clause—

They will calculate upon estimates—

If they tax they will estimate upon the sources—

Requin. if not complied wt. by some States—

then Congress to inflict a penalty to disgrace them—will never do it—some will do it—no remedy—the demands on some States, never can pay—must forgive the debt—a recent Ins[tance]—seen—Georgia proposes a Cession, but requires a credit, more than all her requis³¹—cannot recover it—injures us—the same will always happen^(a)—

Object. to excise on growth & manufacture—against this State—because we shall not be a manufactg State—we reduce the genl govt. to the necessary. of laying all taxes on imports—These divided between importer & consumer—when plenty the importer pays a part—

The Eastern States manufacture—

N Engd. manufacture more ard[en]t Spirits than we do—

The eastern States encourage manufacts.—put it out of our power to derive advantages—

You are to presume they will not be laid prematurely—

Apologizes, for using strong expressions—mode he is accustomed—and earnest—

[Smith's marginal note]

(a) The same will always happen in taxes— [Melancton Smith, Notes, N]

HAMILTON. The production of those Papers were to shew—The necessity of greater Powers in congress. As Requisitions of Congress were [inefficient?].

Old System opposed—what the Principles of the opposition to the new.

What is *Supreme*—It cannot be contrould by any other [— — —].

So are the laws of the State Legsr. to certain extent.

Power not granted—*rests* in the Particular State. because the state G. has already been granted—The New Governmt. therefore cannot assume more than what is granted.

Poll Tax may be necessary—he does not like it—yet the Eastern states have it—Netherlands once gave the 20 part of their Property³²

Said by some, it is impossible for the G[eneral] G[overnment] to Lay a general Tax—Then it *will* not be exercised.

Propositions now before the Co[m]mittee—ill consequences of *requisitions*. State unable must be excused—This State [a peculiarity?]—we will be a contributing State.

Connecticut will become a manufacturing State—Pay less on [impost?] than N.Y. [Robert Yates, Notes, DLC]

* * * * *

JOHN LANSING, JR. This clause, Mr. Chairman, is, by every one, considered as one of the most important in the constitution. The subject has been treated in a very diffusive manner. Among all the ingenious remarks, which have been made, some are little more than repetitions; others are not very applicable or interesting. I shall beg leave to pass a few strictures on the paragraph, and, in my reply to the gentlemen, shall confine myself to the arguments, which have been advanced. The committee have been informed, that it embraces a great variety of objects, and that it gives the general government a power to lay all kinds of taxes: That it confers a right of laying excises on all articles of American manufacture, of exacting an impost, in which the state governments cannot interfere, and of laying direct taxes without restriction.—These powers reach every possible source of revenue. They will involve a variety of litigations, which can come only under the cognizance of the judiciary of the United States.—Hence it must appear, that these powers will affect, in an unlimited manner, the property of the citizens; That they will subject them, in a great degree, to the laws of the union; and give an extensive jurisdiction to the federal courts. The objects of the amendment are, to prevent excises from being laid on the manufactures of the United States, and to provide, that direct taxes shall not be imposed, till requisitions shall have been made and proved fruitless.

All the reasoning of the gentlemen goes to prove, that government ought to possess all the resources of a country. But, so far as it respects government in general, it does not apply to this question. Giving the principle its full force, it does not prove that our federal government ought to have all the resources: because this government is but a part of a system, the whole of which should possess the means of support. It has been advanced repeatedly by the gentlemen, that the powers of the United States should, like their objects, be national and general. It

appears to me proper therefore, that the nature of their resources should be correspondent. Sir, it has been declared, that we can no longer place any confidence in requisitions. A great deal of argument has been spent on this point. The gentlemen constantly consider the old mode of requisitions and that proposed, in the same view. But not one of us has ever contended for requisitions in the form prescribed in the existing confederation: Hence the reasoning about the inefficacy of the antient mode has no application to the one recommended; which rests on different principals, and has a sanction, of which the other is totally destitute. In the one instance, it is necessary to execute the requisitions of Congress on the states collectively. There is no way of doing this but by coercing a whole community; which cannot be effected. But the amendment proposes to carry the laws of Congress to the doors of individuals. This circumstance will produce an entire change in the operation of requisitions; and will give them an efficiency, which otherwise they could not have. In this view, it will appear, that the gentlemen's principles respecting the character and effects of requisitions can have no application in this dispute. Much pains has been taken to shew, that requisitions have not answered the public exigencies. All this has been fully admitted in former stages of the debate. It was said by a gentleman [Robert R. Livingston] yesterday, that though considerable sums of money had been paid by the people, it was by way of bounties to the soldiers, which was a coercion on individuals. If then this coercion had its effect, certainly its operation, upon the proposed plan, will be much more forcible. It has been said, that in sudden emergencies, all the resources of the country might be required; and that the supreme head ought to possess the power of providing for the public wants, in every degree. It is an undoubted fact, that in all governments, it is extremely difficult, on the spur of the occasion, to raise money by taxes. Nor is it necessary. In a commercial country, persons will always be found, ready to advance money to the government, and to wait the regular operation of the revenue laws. It depends on the security of the taxes, and the certainty of being refunded. This amendment does not diminish the security, or render the fund precarious. The certainty of repayment is as well established, as if the government could levy the taxes originally on individuals.

Sir, have the states ever shewn a disposition not to comply with the requisitions? We shall find that, in almost every instance, they have, so far forth as the passing the law of compliance, been carried into execution. To what then are the delinquencies to be attributed?—They must be to the impoverished state of the country. If the state governments have been unable to compel the people to obey their laws; Will

Congress be able to coerce them? Will the federal taxes be better paid? But, Sir, no reasonable man will be apprehensive of the non-compliance of the states, under the operation of the proposed plan. The right of enforcing the requisitions will furnish the strongest motive for the performance of the federal duty. With this powerful inducement, there is hardly a possibility of failure. It has been asked, why give the individual states the preference? Why not suffer the general government to apply to the people in the first instance, without the formality of a requisition? This question has been repeatedly asked, and as often answered. It is, because, the state legislatures are more nearly connected with the people, and more acquainted with their situation and wants. They better know, when to enforce, or relax their laws; to embrace objects, or relinquish them according to change of circumstances: They have but a few varying interests to comprehend in general provisions. Congress do not possess these advantages: They cannot have so compleat an acquaintance with the people: Their laws, being necessarily uniform, cannot be calculated for the great diversity of objects, which present themselves to government. It is possible that the men delegated may have interests different from those of the people. It is observed, that we have had experience of different kinds of taxes, which have been executed by different officers; for instance, county and state taxes; and that there has been no clashing or interference. But, Sir, in these cases, if any dispute arises, the parties appeal to a common tribunal; But if collectors are appointed by different governments, and authorised by different laws, the federal officer will appeal to a federal court; his adversary will appeal to the state court. Will not this create contests respecting jurisdiction? But the constitution declares, that the laws of the United States shall be supreme. There is no doubt therefore, that they must prevail in every controversy; and every thing, which has a tendency to obstruct the force of the general government, must give way.

An honorable gentleman from New-York [Alexander Hamilton] has remarked, that the idea of danger to the state governments can only originate in a distempered fancy: He stated, that they were necessary component parts of the system; and informed us how the president and senators were to be elected: His conclusion is, that the liberties of the people cannot be endangered. I shall only observe, that however fanciful these apprehensions may appear to him; they have made serious impressions upon some of the greatest and best men.—Our fears arise from the experience of all ages, and our knowledge of the dispositions of mankind. I believe the gentleman cannot point out an

instance of the rights of a people remaining, for a long period, inviolate. The history of Europe has afforded remarkable examples of the loss of liberty by the usurpations of rulers. In the early periods of the government of the United Netherlands, the magistrates were elected by the people; but now they have become hereditary. The Venetians are, at this day, governed by an aristocracy.—The senators, once the representatives of the people, were enabled, by gradual encroachments, at last to declare themselves perpetual. The office has since become hereditary, and the government entirely despotic.³³—The gentleman has adduced one historical example, to prove that the members of a government, in their contests with the head, generally prevail. He observed, that in the struggles between the feudal sovereigns of Europe and their barons, the latter were usually victorious. If this were true, I believe the operations of such a system as the feudal, will not warrant the general inference he draws. The feudal barons were obliged to assist the monarch in his wars with their persons and those of their vassals. This, in the early periods, was the sovereign's sole dependence. Not possessed of pecuniary revenues, or a standing military force, he was, whenever the barons withdrew their aid, or revolted against his authority, reduced to a very feeble situation. While he possessed not the means of carrying on his wars, independently of his nobles, his power was insignificant, and he was unsuccessful. But, sir, the moment he gained the command of revenues and an army; as soon as he obtained *the sword and the purse* the current of success was turned, and his superiority over his barons was regularly augmented, and at last established. The barons, in their early wars, possessed other peculiar advantages:—Their number was small; They were actuated by one principle, and had one common object; It was to reduce still lower the feeble powers of the monarch: They were therefore easily brought to act in concert. Sir, wherever the revenues and the military force are, there will rest the power: The members, or the head will prevail, as one or other possess these advantages. The gentleman, in his reasoning, has taken the wrong part of the example; that part, which bears no resemblance to our system.—Had he come down to a later period, he would indeed have seen the resemblance; and his historical facts would have directly militated against his argument. Sir, if you do not give the state governments a power to protect themselves; If you leave them no other check upon Congress, than the power of appointing senators; they will certainly be overcome, like the barons of whom the gentleman has spoken.—Neither our civil, or militia officers, will afford many advantages of opposition against the national government: If they have any

powers, it will ever be difficult to concentrate them, or give them a uniform direction.—Their influence will hardly be felt; while the great number of lucrative and honorable places, in the gift of the United States, will establish an influence, which will prevail in every part of the continent.

It has been admitted by an honorable gentleman from New-York, (Mr. Hamilton) that the state governments are necessary, to secure the liberties of the people. He has urged several forcible reasons why they ought to be preserved, under the new system; and he has treated the idea of the general and state governments being hostile to each other, as chimerical. I am however firmly persuaded, that a hostility between them will exist. This was a received opinion in the late convention at Philadelphia. That honorable gentleman was then fully convinced that it would exist; and argued with much decision and great plausibility, that the state governments ought to be subverted; at least, so far as to leave them only corporate rights; and that, even in that situation, they would endanger the existence of the general government. But the honorable gentleman's reflexions have probably induced him to correct that sentiment.³⁴ [Childs, *Debates*, 119–23]



LANSING. I Shall confine myself to the Argumts. agt. the Amendmt.

1 A Power limited only by discretion

2 Excises

3 Imposts (in which the States cannot interfere)

4 Stamps or any thing else they please

They will have the Power of making Laws very extensive in their operation

Many Siezuers

3d. the Jurisdiction of the Genl Court

The Amendmt proposes 1st to Saves the Manufactures for the States from

2d. That the Genl. Govt. shall not levy until the States have been called on

The Power of Taxation in Govt. necessary—

Not necessary to the Extent here given—

It is said that the duties on Imports will be adequate to ordinary Dem[ands]

It has not be[en] said that Requisitions as formerly made were adequate

The Amendment fully holds out the Remedy—And carries to Individuals the raising the Money—

Therefore much of the Reasoning agt. Requisitions were here unnecessary—

It [was] said yesterday by a Gent from N York (Chancell Liv)

That the depreciation was a coercion on Individuals—This Amendmt. will [be] a much greater Coercion

It is said they should have power to raise Money on a Sudden Occasion—Answer—Money on such Immediate Occasion must be raised on Loan as on the Revenue Laws in Britain—

Have not the States where in a Capacity to make Laws passed Laws to Comply—It is owing to the Poverty of the Country or some other Causes which have rendered them unable—

If they should neglect Congress have the Power to interfere and Compel them—

It [is] said it is an Experimt—I think it a plausible Expermt. to produce the object desired—

It is asked are you not as safe to give the Genl. Govt. Power as the State Govts.

This has been repeatedly answered

A more Intimate

It was said that the publication of Accounts was a Sufficient Answer An Acct. without Vouchers very Inadequate—

It was said we experience no Inconvenience by State And County Taxes—true they are Assessed & Collected under the Same

In the other Cases must be collected by different Officers under Laws of the Genl. Govt. and in their own Courts—

every thing that will impede

Will it not be in the Power of the Genl Govt. to declare that their Debts shall be first paid—to exempt their officers from Penalties

A Gent. from N. York (Mr Hamilton) Said Ideas of Danger could only arise from the Completion of the Times—

That it was impossible a Govt. so organized Should injure the Liberties of the People—

he cannot Shew

In the Republic [United Netherlands]—The officers were at first really elected by the People now a Hereditary Aristocracy—

The Venetian Republic now governed by a Hereditary Nobility—

This was brought about by a Method much Similar

Those who first appointed the Electors shewed that where their own Interest was concerned they disregarded remote Consequ[ences]

The Doctrine of *Purse & Sword* was said to be misapplied—

Wherever they are in one *hand* it is dangerous

It is to be vested in the Genl. Govern. and therefore applies most forcibly—

An Instance from the feudal System that in Struggles between Sovereign Barrons—The Latter generally prevailed—

The Reverse in many Cases true—

As long as the feudal Sovereigns were without military Service the Sovereign had little more than Homage—

When the Sov[er]eigns by a commutation for military Service obtained Military force—The Barrons with arms and knowing to Use them were little more than vassals—

Combinations among them were natural and Easy—

The Example quoted by the Gent. [Alexander Hamilton] was perhaps the only one—

The Causes before mentioned and the Gradual but certain Progress of the Judiciary brot on what they experienced, and what without some other Check [we?] have reason to expect—

The Genl. Govt. but one Interest—The State Govts. various Interests and want uniformity—

The Officers of the Genl. Govt. will have greater Emolumts. Interest & rank and Countervail the State officers—

It is admitted by a Gent. (Mr. [Hamilton])

That the State Govts. must exist and were necessary to civil Liberty

They must be hostile—This was a genl Sentimt. in Convention—This the Sentimt. of the Gent in Convention—That he wished to Subvert the Individual State Govts. or reduce them to the Situation of Corporations—

That it was the general received Opinion that a Hostility would exist. [McKesson's Notes, NHi]

* * * * *

ALEXANDER HAMILTON here interrupted Mr. Lansing, and contradicted, in the most positive terms, the charge of inconsistency included in the preceding observations. [Childs, *Debates*, 123]

HAMILTON. There would be a rivalry of Power—That the danger was that the State Govts. would Subvert the National Government

It was not the prevailing opinion that the State Govts would be subverted.—He says that I tho't the *Subversion* of the State Govt Necessary—

I wish to have an Extensive State Govt. but advanced as a Reason that the State Governmts. should carry Govts. Home

The System fell Short of my Ideas in the Convention— [McKesson's Notes, NHi]

CONVENTION PROCEEDINGS. This produced a warm personal altercation between those gentlemen, which engrossed the remainder of the day. As this dispute was of a delicate nature, and as a statement of the circumstances, however cautiously formed, may wear a complexion not perfectly satisfactory to the parties; the Editor presumes, that the public will excuse an entire omission of the subject. [Childs, *Debates*, 123]

JOHN LANSING, JR.³⁵ The Honorable Member will recollect he said between the Individual States and the united States there would be hostility—

The Member wanted to place them in the Quality of Corporations—

None of their Laws to take Effect without an Officer of the united States present— [McKesson's Notes, NHi]

ALEXANDER HAMILTON. I Supposed a Rivalship of Power—I was for giving additional Cautions in favor of the National Govt.

I held up the State Govts. as necessary to the Support of Government
I think it highly improper and uncandid for a Gent. to mention in this Committee Argumts. by me used in that Convention— [McKesson's Notes, NHi]

JOHN LANSING, JR. I am charged with being uncandid & improper Behavior—

I did not at first express the matter as full as it came out afterwards—

I was compelled to it—The Matters of that Convention were no longer Secrete when their proceedings were published—

The Convention have a right to call on us— [McKesson's Notes, NHi]

ALEXANDER HAMILTON. A disingenu[i]ty is imputed to me—That Honorable Member ought to retract it—It is improper to be here introduced—because if my Sentiments were improper—the Convention tho't differently—To bring forth Individual Sentiments to operate agt. the Acts of Convention— [McKesson's Notes, NHi]

1. For descriptions of these papers, see notes 2, 6–14 (below).

2. The citations are to page 39 from the *Votes and Proceedings of the Senate . . .* [31 January–1 July 1781] (Poughkeepsie, 1783) (Evans 44424) and the 17 April 1782 issue

of James Rivington's *Royal Gazette*, a Loyalist newspaper printed in New York City. Governor Clinton's letter was written on behalf of the legislature and addressed to Samuel Huntington, the President of Congress. It was a long litany of the distresses faced by New York during the Revolution (RCS:N.Y., Vol. 1, p. xxviii).

3. The reference is to the Impost proposed by Congress on 3 February 1781 (CDR, 140–41).

4. For descriptions of these legislative acts and resolutions, see note 2 (above) and notes 6–14 (below).

5. The Articles of Confederation were ratified by the thirteenth state (Maryland) on 1 March 1781, thereby completing the establishment of the Confederation.

6. In this speech, Governor Clinton expressed the belief that Congress should be vested "with such Authority, as that in all Matters which relate to the War, their Requisitions may be peremptory" (*Votes and Proceedings of the Senate . . .* [7 September–10 October 1780] [Poughkeepsie, 1783], 4 [Evans 44423]. See also RCS:N.Y., Vol. 1, p. xxvii.).

7. In this answer, dated 9 September 1780, two days after Governor Clinton's address, the Senate agreed that means had to be found to complete the Confederation and to give Congress "competent Authority" to make its requisitions on the states "peremptory." The Senate was also pleased by the proceedings of the Boston Convention which "affords us the happy Presage that the Necessity of confirming, extending and defining the Powers of Congress, will pervade the Whole" (*Votes and Proceedings of the Senate . . .* [7 September–10 October 1780] [Poughkeepsie, 1783], 7 [Evans 44423]).

8. The Assembly adopted three resolutions on 10 October 1780, in which the Senate concurred. One resolution instructed New York's delegates to Congress to indicate to Congress that it was "the earnest Wish" of New York that Congress, throughout the war or until the Confederation was completed, "exercise every Power which they may deem necessary for an effectual Prosecution of the War." If a state did not meet a congressional requisition, Congress was to direct the Commander-in-Chief, "without Delay," to march troops into the state and compel it by military force to meet its deficiency. Another resolution said essentially the same thing, when instructing the commissioners to the Hartford Convention (see also note 9, below) (*Votes and Proceedings of the Assembly . . .* [7 September–10 October 1780] [Poughkeepsie, 1780], 43 [Evans 16907] and *Votes and Proceedings of the Senate . . .* [7 September–10 October 1780] [Poughkeepsie, 1783], 33–34 [Evans 44423]).

9. On 23 September 1780 the New York legislature resolved to send commissioners to a convention, composed of commissioners from the New England states and New York, to meet in Hartford, Connecticut, in November, to coordinate wartime activities and to strengthen Congress. Three days later the legislature appointed the commissioners, and on 10 October it instructed them (see note 8, above). The Hartford Convention proposed that Commander-in-Chief George Washington be given certain dictatorial powers, that Congress be permitted to levy tariffs to pay the interest on the public debt, that it be given coercive power to force the states to pay its requisitions, and that it be given the broad powers implied in the Articles of Confederation.

10. See note 2 (above).

11. Actually dated 19 March 1781, Governor Clinton's message to the legislature stated that Maryland had become the thirteenth state to ratify the Articles of Confederation (RCS:N.Y., Vol. 1, p. xxviii).

12. On 29 March 1781 the legislature agreed to a resolution approving of the proceedings of the Hartford Convention, which were described as "calculated to promote the Interest of the United States" (*Votes and Proceedings of the Senate . . .* [31 January–1 July 1781] [Poughkeepsie, 1783], 92 [Evans 44424]). For the recommendations of the Hartford Convention, see note 9 (above).

13. The Senate resolutions were delivered to the Assembly at 9:00 A.M., on 22 November 1781. The legislature informed Congress that, due to New York's "present exhausted Condition," it was unable to meet its quota of requisitions. The legislature requested that Congress suspend any further requisition on the state for money, but asserted "that they will most vigorously, by every Way and Means in their Power, exert themselves in the common Cause; and that in the mean Time, as this State most cheerfully and readily passed a Law assigning to Congress a Duty on Imports, agreeable to their Recommendation [i.e., the Impost of 1781], so they do hereby declare in Behalf of this State, their Readiness to comply with any Measures to render the Union of these United States more intimate, and to enable Congress, and as far as the Condition of this State will permit, to contribute their Proportion of well established Funds; to the End, that the representative Body of the American Empire, may draw forth, and employ its Resources with the utmost Vigour" (*Notes and Proceedings of the Assembly . . .* [24 October–23 November 1781] [Poughkeepsie, 1781], 44–45 [Evans 44011]). For the Impost of 1781, see CDR, 140–41, and for New York's ratification of the impost on 19 March, see RCS:N.Y., Vol. 1, p. xxviii.

14. On 20 July 1782 the Senate adopted several resolutions "relative to the State of the Nation." One declared that "the radical Source of most of our Embarrassments, is the Want of sufficient Power in Congress, to effectuate that ready and perfect Co-operation of the different States, on which their immediate Safety and future Happiness depend," "particularly in not vesting the foederal Government either with a Power of providing Revenue for itself, or with ascertained and productive Funds, secured by a Sanction so solemn and general, as would inspire the fullest Confidence in them, and make them a substantial Basis of Credit." Another resolution called for each state to adopt measures for "assembling a general Convention of the States, specially authorised to revise and amend the Confederation, reserving a Right to the respective Legislatures, to ratify their Determinations." On 22 July the Assembly notified the Senate that it had unanimously concurred in the Senate's resolutions. The governor was instructed to send a copy of the resolutions to Congress and the executives of each state (*Notes and Proceedings of the Senate . . .* [8–25 July 1782] [Poughkeepsie, 1782], 89–90, 91–92 [Evans 44239]). For the response to these resolutions, see RCS:N.Y., Vol. 1, p. xxix.)

15. On 29 March 1781 the New York legislature endorsed the recommendations of the Hartford Convention which included a proposal to grant certain dictatorial powers to Commander-in-Chief George Washington. (See note 9, above.) Although the Convention's recommendations went further than Clinton expected, he endorsed the Hartford Convention's recommendations.

16. For Clinton's misgivings about the Impost of 1783 and for the opposition to and support for the impost in New York, see RCS:N.Y., Vol. 1, xxxvi–xl, and Kaminski, *Clinton*, 89–96. Writing as "H. G." in the *Daily Advertiser*, 20 and 23 March 1789, Alexander Hamilton—a strong supporter of the Impost of 1783—tried to discredit Clinton's assertion in the New York Convention that Clinton had supported the impost (Syrett, V, 277–82).

17. During the Revolution, Governor Clinton had an excellent working relationship with Commander-in-Chief George Washington. Not long after Washington resigned as Commander-in-Chief and returned to Virginia, he commented to Clinton upon "the obligations I consider myself under for the spirited & able assistance, I have often derived from the State under your Administration" (28 December 1783, Fitzpatrick, XXVII, 287–88).

18. No document has been located indicating that Hamilton had opposed the notion of a "dictator." For evidence that he knew that some members of both houses of the New York legislature supported the appointment of a "dictator," see Philip Schuyler to Hamilton, 10 and 16 September 1780, Syrett, II, 425, 433. For the sympathy in Congress for such an appointment at this time, see James Lovell to Elbridge Gerry, 5 September

1780, John Mathews to George Washington, 15 September 1780, and Lovell to Gerry, 20 November 1780, Smith, *Letters*, XVI, 20–21 (especially note 4), 68–70 (especially note 2), 363–66.

19. The reference is to the Impost of 1783 (CDR, 146–48) and the opposition to it in New York, an opposition that eventually defeated the measure. (See note 16, above.)

20. A reference to Rhode Island's rejection of the Impost of 1781 (CDR, 140–41) and to New York's failure to adopt the Impost of 1783 (CDR, 146–48) without restrictions that were objectionable to Congress.

21. Hamilton's source for this statement has not been determined. However, Sir William Temple's *Observations upon the United Provinces of the Netherlands* (London, 1673) contains a passage indicating that the Dutch obtained revenue through a direct tax in times of emergency, although normal sources of revenue were the excise and customs. Temple stated: "The extraordinary Revenue is, when upon some great occasions or Wars, the Generality agrees to any extraordinary Contributions; As sometimes the Hundredth penny of the Estates of all the Inhabitants; Pole, or Chimney-money; Or any other Subsidies and Payments, according as they can agree, and the occasions require; Which have sometimes reached so far, as even to an Imposition upon every man that travels in the common ways of their Country, by Boat, or in Coach; in Wagon, or on Horseback" (p. 230).

22. Article I, section 8, clause 1 of the Constitution provides that "all Duties, Imposts and Excises shall be uniform throughout the United States."

23. On 1 June 1787, John Adams signed an agreement for a loan from Dutch bankers of one million florins (\$400,000). The loan was necessary, in part, to pay the interest due on Dutch loans obtained the previous June. On 11 October 1787, Congress approved the loan (JCC, XXXIII, 412–15, 649).

24. For this resolution, see Convention Debates, 26 June, at note 9.

25. John McKesson's notes of the speech (immediately below) indicate that Hamilton was referring to John Williams.

26. See note 22 (above).

27. Hamilton actually said North Carolina, not South Carolina. (See Melancton Smith's account of this speech that follows McKesson's account.) The former paid only 3% of its requisitions, while the latter paid 55%. New Hampshire paid, 12%, Georgia, nothing, New York, 67%, and Pennsylvania, 57%. For the payment of the requisitions of Congress by the states, see RCS:N.Y., 14, note 4.

28. See note 24 (above).

29. On 29 May 1788 Congress received an act of the Georgia legislature, dated 1 February 1788, ceding that state's western lands to Congress, subject to several conditions. Under one of these conditions, Congress was to give Georgia a credit for the expenses that the state had incurred in quieting and resisting the Indian population. This credit was to be applied to the payment of Georgia's quota of the specie requisitions of Congress. The act of cession was turned over to a committee whose report rejecting the cession was read in Congress on 14 July. The committee listed this condition as one that was unacceptable. The next day, Congress agreed to the committee's report (JCC, XXXIV, 188, 320–26). Georgia's cession of its western lands was not accepted until 1802.

30. For New York's position on the Impost of 1781 and the Impost of 1783, see RCS:N.Y., Vol. 1, xxviii, xxxi, xxxvi–xl. See also note 16 (above).

31. See note 29 (above).

32. See note 21 (above).

33. John Adams designated Venice an "aristocratical republic" and discussed how the aristocracy subverted early Venetian republicanism at the expense of the doge (executive) and the people and became a ruling oligarchy. (See Adams, *Defence*, Letter XIX, "Venice," Vol. I, 58–69.) For a brief description of the apex of Venice's ruling oligarchy at the end

of the eighteenth century, see Frederic C. Lane, *Venice: A Maritime Republic* (Baltimore, 1978), 427–31.

34. In particular, Hamilton's ideas were enunciated in the five-hour-long speech he delivered in the Constitutional Convention on 18 June 1787—the speech in which he presented his “plan” for the government of the United States. John Lansing, Jr., also a delegate to the Constitutional Convention, took notes on Hamilton's speech. Concerning the matter discussed here in Hamilton's speech to the New York Convention, Lansing's notes read: “The Expence of national Government is a Consideration with him—it will probably amount to £100,000 per ann.—this however surmountable—It will not do to propose formal Extinction of State Governments—It would shock public Opinion too much.—Some subordinate Jurisdictions—something like limited Corporations. If general Government properly modified it may extinguish State Governments gradually” (Farrand, *Supplement*, 83. See also notes by James Madison and Robert Yates, the third New York delegate to the Constitutional Convention, in Farrand, I, 287, 298. For Hamilton's “plan” of government and its provisions concerning the states, see Farrand, I, 291–93, and for a brief sketch of the entire “plan,” see RCS:N.Y., Vol. 1, p. xlix.).

35. According to Lansing, as he was about to rise to respond to Hamilton, James Duane “interposed and requested that an End might be put to the Altercation” (to Abraham Yates, Jr., 28 June, immediately below).

Reports on the Altercation Between Alexander Hamilton and John Lansing, Jr., 28, 30 June 1788

On Saturday, 28 June, Alexander Hamilton, a former New York delegate to the Constitutional Convention, delivered a long speech partly describing the important role that the states would continue to play under the new Constitution, by enumerating the powers that were reserved to them. John Lansing, Jr., also a former New York delegate, replied that in the Constitutional Convention on 18 June 1787 Hamilton had called for the virtual annihilation of the states during a five-hour speech in which Hamilton presented his “plan” for the government of the United States. Hamilton denied Lansing's charge of inconsistency and declared it “highly improper and uncandid for a Gent. to mention in this Committee Argumts. by me used in that Convention.” Lansing called upon Robert Yates, New York's third delegate to the Constitutional Convention who had taken notes of the debates, to verify his description of Hamilton's position in the Constitutional Convention. Because this exchange produced “disorder,” the chairman of the committee of the whole called for order and “A motion for adjournment put an end to the altercation.”

On Monday, 30 June, Yates was again called upon, and he supported Lansing's charges. Whereupon, Hamilton questioned Yates about favorable comments Hamilton had made concerning the existence of the states. Yates said that Hamilton had indeed made remarks friendly to the states. Federalist John Jay, in defense of Hamilton, also questioned Yates, and got him to reiterate that Hamilton had been well-disposed to the states. Lansing then wanted Yates's notes read, but they were not read because Lansing did not comply with the Convention's rule that such action required a formal motion. Another motion to adjourn ended the altercation.

The altercation drew comments in newspapers and private letters, some of which are printed immediately below. Francis Childs's Federalist *Daily Advertiser*, 4 July, printed the fullest account of the altercation. The Antifederalist

New York Journal, 3 July, printed only this statement: “On Saturday, some severe debates took place, which produced temper, insomuch that the committee rose without finishing the section; when a resolve of the convention originated to set twice a day for the expedition of the important business before them.” In addition to the documents printed below, see the *New York Museum*, 1 July (VI, below), and Abraham Bancker to Evert Bancker, 28 June, and From Collin McGregor, 2 July (RCS:N.Y., 1231, 1248). Most of the accounts commented upon the highly personal and hostile nature of the altercation.

John Lansing, Jr., to Abraham Yates, Jr.
*Poughkeepsie, 28 June 1788*¹

The Convention have just adjourned—in the Course of the Debates Mr. Hamilton mentioned his persuasion that the State Governments ought to be & were a necessary part of the System—that both were essential in its operations and that no Ideas hostile to the Existence of the State Governments could be possibly harboured by the general Government.

In answering his Observations I took Occasion to observe—that no Opinion appeared more generally received in the Convention at Philadelphia than that a hostile Disposition would exist between the State and general Governments—that he was then thoroughly convinced & argued with much Decision and with great plausibility for the subversion of the State Government[s] so far as to reduce them to mere corporate Communities & that even in this Situation he supposed them dangerous to the general Government—but that it appeared probable that Reflection had induced him to correct that Sentiment.—He rose much agitated and charged me with an improper and uncandid Line of Conduct, attempted to reconcile his Declarations and denied the Sentiment being general in the Convention that one Government adverse to & at Enmity with the other & stated that his Ideas of a State Government were evinced by a proposition he brought forward to constitute the first Judges of each State a Court of Impeachments.—I was rising when Mr. Duane interposed and requested that an End might be put to the Altercation—I appealed to the Committee whether the Interposition was proper & as it had not been made while Hamilton was speaking—as all were silent I proceeded to observe that as a Member of the Convention I stood on the Floor as every other Member to endeavor to discover the Objects of that Constitution & the Motives which led to its Adoption—that the Injunction of Secrecy in the general Convention ceased with its Dissolution and that I did not consider myself bound by it—that the Declaration of Mr. Hamilton was not the Effect of a momentary Impression but of deliberate Reflection as he

had brought forward a proposition in consequence of it—that this had in Object rendering the States so subordinate that none of their Measures could be carried without the Consent of an Officer to be appointed by the general Government. I told the Chairman that on this Occasion we had fortunately a person to w[hom?] we could appeal to determine whether I stated Things truly—Judge Yates then rose & as we were by this Time in a Ferment he recommended an Adjournment leaving every Thing in Statu quo to be resumed on Monday.

The Article of Taxation is not yet gone thro'—I thought proper to mention these Circumstances that you might be apprised of the particulars to prevent Misrepresentations.

*Christopher P. Yates to Abraham Yates, Jr.
Poughkeepsie, 30 June 1788²*

I wrote you by Frydays Stage—that day an Amendment Was brought forward to the first Clause of the eighth Section of the first Article³—on which we are yet busy—the merits of the Constitution were more largely entered into on that Clause than it had on any former debate—

Mr. Lansing in his Argument on Saturday [28 June] took occasion to mention how warmly & decidedly Colonel Hamilton had argued for a total Annihilation of State Governments—

By the bye Mr. Hamilton had in his Argument on the 8 Section declared that the existence of the State Governments was absolutely necessary to uphold the General Governmt.

I imagine Mr. Lansing looked on this as an inconsistency in Mr. Hamiltons Conduct—

This brought on a disagreeable Altercation—they both got extremely warm—insomuch that Lansing was charged by the other with want of Candor & indecency—

Mr. Lansing called on Judge Yates—who this morning came forward—and every person I have conversed with is clearly convinced that Lansing is fully justified—This Afternoon nothing farther was said on that Subject—

You will by this conveyance have Lansings Speech on Saturday in full I have this evening copied part of it for him & from which you'll have a better Idea of this sparring⁴—

By this Stage I write Loudon⁵ for the Laws & Journals for our County to be sent to the post office in Albany by a Sloop—17 setts in all—if in your way I wish you would urge him on and point out a careful skipper to him—

New York Daily Advertiser, 1 July 1788⁶

Our last accounts from Poughkeepsie were dated on Saturday last. The Convention were then debating on the 8th sect. of the 1st art. on which they had then spent three days;—Mr. Hamilton advocating the clause against the objections of Mr. Smith, Mr. Lansing, and Mr. Williams.

Matters, we understand, are taking a warm turn in our Convention. Sundry papers were produced on Saturday, to shew an inconsistency in the politics of this State. This produced, by way of retort, an accusation of inconsistency in an Honorable Member of the Convention from this city [Alexander Hamilton], with respect to the State Governments; Mr. Lansing declaring, that it was the prevailing sentiment of the General Convention, that the State Governments ought to be destroyed, and that it was particularly the sentiment that Colonel Hamilton delivered in that Convention. Mr. Hamilton denied this peremptorily, and justified his conduct, with some severe remarks on Mr. Lansing. This produced some disorder, on which the Committee rose.

A resolution was then entered into, that the Convention would meet twice in each day—from nine in the morning, and sit till noon; and from three till six in the afternoon.—The decision, we are informed, will probably take place this week.

New York Daily Advertiser, 4 July 1788⁷

A letter of the 1st inst. says, “That on Saturday the 28th ult. the Convention were still discussing the 1st clause of the 8th section of the 1st article, respecting the powers of Congress. Objections were at large stated, and amendments proposed by Mr. Williams, Mr. Smith and Mr. Lansing, who were answered by Mr. Hamilton in a most animated and powerful defence of the clause. Mr. Lansing in reply, let fall some expressions which tended to shew an inconsistency in Col. Hamilton’s conduct. He asserted that in the Federal Convention that gentleman had agreed strongly that the State governments ought to be subverted or reduced to mere corporations. He compared these sentiments to those he had avowed in the present Convention, viz. That the State governments were necessary for the preservation of liberty. This called up Mr. Hamilton, who entered into a statement of facts; denied what the gentleman had asserted; declared that in the General Convention his ideas had been uniformly the same as on the present occasion: that tho’ he at that time declared, as he had constantly and publicly done since, his apprehension that the State governments would finally subvert the general system, unless the arm of the Union was more strengthened than it was even by this Constitution; yet he had through the

whole of the business advocated the preservation of the State governments, and affirmed them to be useful and necessary. He accused Mr. Lansing's insinuation as improper, unbecoming and uncandid. Mr. Lansing rose, and with much spirit resented the imputation. He made an appeal to Judge Yates, who had taken notes in the Federal Convention for a proof of Mr. Hamilton's expressions. This produced some disorder in the Committee, and the Chairman was obliged to call to order. A motion for adjournment put an end to the altercation.

[“]On Monday Mr. Yates was again called upon by Mr. Lansing for his evidence; to which Mr. Hamilton freely submitted. Mr. Yates made an apology for the possible mistakes of his minutes, and said that in the General Convention, Mr. Hamilton had urged strongly for giving the most compleat sovereignty to Congress, and that in order to prevent the encroachments which he feared the State governments would make on the Union, they should be reduced to a smaller scale and be invested with only corporate powers. Mr. Hamilton observed, that corporate was an ambiguous term, and asked Mr. Yates if he understood that he (Mr. Hamilton) used it as descriptive of powers, similar to those of the city of New-York? To which Mr. Yates answered in the negative; adding that he understood the gentleman not to wish such a privation of powers as would reduce the States to mere corporations in the popular acceptance of that term; but only such as would prevent the Members from retarding in any degree, the operations of the united government. Col. Hamilton then asked him if he did not, after the above mentioned debate in the Federal Convention, hear him (Col. Hamilton) say, that his opinion was that the State governments ought to be supported, and that they would be useful and necessary: and further asked him if he did not remember that he (Col. Hamilton) had recommended (as an additional security to the State governments) a Court of Impeachments, to be composed by the Chief Judges of the several States, together with the Chief Justice of the United States. To all which Mr. Yates gave an affirmative answer. On Mr. Jay's proposing to Mr. Yates some questions with a view to set the matter in the most explicit point of light, Mr. Yates answered as before, that Col. Hamilton's design did not appear to him to point at a total extinguishment of the State governments, but only to deprive them of the means of impeding the operation of the Union. Some explanations were attempted by Mr. Lansing, but as Mr. Jay was already on his legs, the gentleman was called to order. Mr. Lansing afterwards expressed a wish that Mr. Yates's notes might be read; but it was not permitted on the suggestion that it ought to be brought forward by a formal motion, according to the rule of the House. Mr. Lansing not seeing fit to comply with this, the affair was terminated by a motion to adjourn.[”]

New York Journal, 7 July 1788⁸

Mr. GREENLEAF, Mr. Childs' paper of the first instant,⁹ containing a most glaring misrepresentation of¹⁰ Mr. Lansing in the Convention of this state, you have at bottom the sentiments delivered by Mr. Lansing in his own words:—

After observing, that it was admitted by an honorable gentleman from New-York, (meaning Mr. Hamilton) that *state governments were necessary in every extent*—that that gentleman had urged several forcible reasons why they ought to exist and that he had treated the idea, *of the general government being hostile to those of the states*, as chimerical, Mr. Lansing proceeded,

“I am¹¹ persuaded that a hostility between the state and general governments will exist—this, sir, was the received opinion in the late convention at Philadelphia.—That honorable gentleman was then fully convinced, that it would exist, and argued with much decision, and great plausibility that the state governments ought to be subverted, at least so far as to leave them only corporate rights, and that even then they would endanger the existence of the general government;—but the honorable gentleman's reflections have doubtless induced him to correct that sentiment.”¹²

1. RC, Gansevoort-Lansing, Lansing Papers, NN.

2. RC, Abraham Yates, Jr., Papers, NN.

3. For Yates's 27 June letter, see VI (below), and for this amendment, introduced by John Williams, see Convention Debates, 26 June, at note 9 (above).

4. On 7 July the *New York Journal* (below) published an excerpt from Lansing's speech that it probably received from Abraham Yates, Jr., who was in New York City representing New York in Congress.

5. Samuel and John Loudon, the printers of the *New York Packet*, were also printers to the state.

6. Reprinted eight times by 17 July: Vt. (1), Pa. (4), Md. (2), Va. (1).

7. The *Pennsylvania Packet*, 12 July, and *Virginia Independent Chronicle*, 16 July, reprinted both paragraphs. The *Massachusetts Gazette*, 11 July, and *Salem Mercury*, 15 July, reprinted only the last paragraph minus the final two sentences.

8. This item also appeared in the *Albany Journal*, 7 July, and the *Hudson Weekly Gazette*, 8 July. The *Albany Journal* added the following sentence at the end: “N. B. The person's name who gives this information is left with the printers.” The *Hudson Weekly Gazette's* version was reprinted in the Philadelphia *Independent Gazetteer*, 23 July. The three versions vary in capitalization, italicization, and punctuation. For significant differences among them, see notes 10–11 below.

9. *Daily Advertiser*, 1 July (above).

10. The *Albany Journal* added “the declarations of” here, while the *Hudson Weekly Gazette* added “the declaration of.”

11. The *Albany Journal* added “well” here.

12. Compare this version of Lansing's comments and the similar version in Childs, *Debates* (RCS:N.Y., 2002, at note 34 above) to the version in the *Daily Advertiser*, 1 July (RCS:N.Y., 2012).

Private Commentary on the Convention, 28 June 1788

Melancton Smith to Nathan Dane
*Poughkeepsie, 28 June 1788*¹

I am favoured with yours of the 24th. Inst²—The accession of New Hampshire will have no other effect upon our convention, than softning them to consider what is proper to be done in the present situation of things, if it has that—Indeed I can scarcely perceive any effect it has had—And the most I fear is that there will not be a sufficient degree of moderation in some of our most influential men, calmly to consider the circumstances in which we are, and to accommodate our decisions to those circumstances—You have had too much experience in public Life not to know, that pride, passion, and interested motives have great influence in all public bodies—They no doubt have their influence in this—From my own situation, perhaps, more than from any better principle, I feel none of these, except, it is probable, a wish to support the party with whom I am connected as far as is consistent with propriety—But, I know, my great object is to procure such amendments in this government, as to prevent its attaining the ends, for which it appears to me, and to you calculated—I am therefore very anxious to procure good amendments—I had rather recommend substantial amendments, than adopt it conditionally with unimportant ones, leaving our critical situation out of the question—I do not find these endeavors sufficiently seconded—The principal labor of managing the Controversy lies upon me—hitherto the amendments proposed are substantial, they will continue so—but as no question is taken on any, it is questionable whether, the most important will not be yielded, under the Idea of making previous conditional amendments—When I am persuaded, if we can agree, to make the condition, a subsequent one, that is, to take place in one or two Years after adoption or the ratification to become void, we can accommodate with the advocates of the constitution for more substantial amendmts—

I inclose you the amendments as far as they have been offered³—the last has been the subject of two days debate⁴—and will take some days more—Mr. Hamilton and the Chancellor have spoken largely in favour of the Article—Mr Lansing and myself have advocated the amendment—The speech published for the Chancellor, is the substance of what he delivered⁵—He and I have come in contact several times—but he has ceased hostilities—He is a wretched reasoner, very frequently—

Hamilton is the champion, he speaks frequently, very long and very vehemently—has, like publius,⁶ much to say not very applicable to the

subject—I wish you to communicate any observations you may think useful.

I am Your friend & Serv[ant]

[P.S.] This will be delivered by Miles Hughes⁷ Esqr., whom I recommend to your acquaintance—

1. RC, Dane Papers, Beverly Historical Society, Beverly, Mass.

2. In Dane's letter of 3 July to Smith, Dane referred to his letter of 24 June (not found) in which he had "briefly" given his "opinion on the questions" that Smith had posed to him. Since Dane was "more at leisure & Sensible [on 3 July] that the peculiar Situation of our Government at this time is a matter of common concern and highly interesting to us all," he decided to answer Smith's questions more particularly and to offer "several observations" for Smith's consideration. Whereupon, in this letter of 3 July Dane focused on amendments to the Constitution, a topic with which Smith's letter of 28 June was also much concerned. For Dane's 3 July letter, see RCS:N.Y., 1254–59, and for Smith's brief response, see Smith to Dane, c. 15 July (VI, below).

3. On 30 June the Antifederalist *New York Journal* printed the texts of the five amendments that had been proposed to the Convention by Antifederalists between 20 and 26 June. For thoughts about how the *New York Journal* obtained copies of the amendments for publication, see RCS:N.Y., 2028.

4. For this amendment, see Convention Debates, 26 June, at note 9 (above).

5. The reference is probably to Chancellor Robert R. Livingston's 19 June speech that began the debates on the Constitution. This speech was first printed in Francis Childs's *Daily Advertiser* on 24 June. In his letter of 24 June to Smith, Dane probably asked Smith about this speech.

6. The reference is to *The Federalist* by "Publius" (Alexander Hamilton, James Madison, and John Jay).

7. For James Miles Hughes in Poughkeepsie, see Hughes to John Lamb, 18 June (RCS:N.Y., 1202–3), and Hughes to Lamb, 17 June (VI, below).

The New York Convention Monday 30 June 1788

Convention Debates and Proceedings, 30 June 1788

CONVENTION PROCEEDINGS. The personal dispute between Mr. Hamilton and Mr. Lansing was again brought forward, and occupied the attention of the committee, for a considerable part of this day. On the termination of which, the debate upon Mr. Williams' motion was resumed and continued by Mr. Williams, Mr. Smith, Mr. Jay, Mr. Jones, &c. [Childs, *Debates*, 123]

* * * * *

JOHN LANSING, JR., stated the difference between him & Mr. Hamilton on Saturday— [McKesson's Notes, NHi]

ALEXANDER HAMILTON stated the sentiments he had held forth—
And denied that he ever was for Subverting the State Govts. or reducing them to the State of Corporations— [McKesson's Notes, NHi]

JOHN LANSING, JR. The Question is what were the Sentiments the Honorable. Gent maintained The Idea he held up was it necessary to reduce the State Govts. to the Situation [McKesson's Notes, NHi]

ROBERT YATES. A disagreeable Controversy—
perhaps I may in my Notes¹ have omitted something—
I endeavoured to take nothing but truth—
I went with great Reluctance—I held it my Duty to go—
I every day reduced my Notes to the form of the Speech—
The Plan as reported was nearly such as it is now—
He gave a preference to that the House had gone thro instead of the Federal plan

That the state Govts. would in their Nature be unfriendly to the Genl. Governmt. That whether it was a general Sentiment. cannot be declared—Many of the leading Characters were of that opinion— [McKesson's Notes, NHi]

ALEXANDER HAMILTON. The Convention as a Body meant to preserve the State Governments—That he did suppose that there would be an opposition between the State Govts. and Genl Govt. and therefore necessary to fortify the Genl Govt. I suppose the word *Corporate Rights* not to have been used by me—but to be result of the Gentlemans reasoning or Sentiments Idea of my Reasoning— [McKesson's Notes, NHi]

ROBERT YATES. in Answer to the Question whether that it was probable or possible that the State Govts. would be extinguished, and therefore it was best to form the Genl. Govt. so as not to have any dependance on the State Govts.—but to stand on its own footing— [McKesson's Notes, NHi]

JOHN WILLIAMS. I shall refute his [Alexander Hamilton's] Arguments.
as to a poll Tax—

He confesses he is an Enemy to a poll Tax—hostile to the Exercise of the Power but contends for the Utility of & for grantg

1. Our Constitution does not prohibit the Power
- 2 New England States have exercised it—

3 It may be necessary in Time of War—

What may be useful or necessary in a State Consti[tu]tion may be the reverse in Genl Govt.

The State Govt. will not exercise it the Genl Govt. will—

The State Govt. more dependt. on the People—The People of the State secure from their Democratic Representation—

New England States may have done wrong—Rome permitted a Cr[editor] to cut the Body of Debtor²—England Authorizes impresses of Seamen³—

A happy equality of Property in Connecticut—it may be nearly just there—

Minority of Maryland Convention opposed to it so zealously that it was one⁴

There cannot be an Emergency to authorize the Rich to oppress the Poor—

Must not do evil that Good may come—

In Holland he said every man paid a 20th.—This might be just it was a paymt. in proportion to property—

Observat[ion]

In every Country almost the Poor are much oppressed

In America they are free and participate or may participate in Governmt.

The Gent. Reasoning as to Excise has great Weight—It is not the Interest of this State to have Manufactures—for a century we may gain by it—

Excise may extend to light given us by Heaven⁵ and to every thing we eat drink or wear— [McKesson's Notes, NHi]

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MELANCTON SMITH. In the course of this debate Mr. Smith made the following remarks, in answer to Mr. Hamilton; that though the gentleman's maxim was true, that the means should be adequate to the end; yet it did not by any means apply to a complex system like ours, in which all the objects of government were not to be answered by the national head; and which therefore ought not to possess all the means. In another view, he said, the rule would not apply. It was not true that the power, which was charged with the common defence, should have all the revenues. In the government of Great-Britain, the power, to whom the common defence was committed, did not possess the means of providing for it: The king had the whole power of war; but the parliament only could furnish the money for conducting it. Still the government, taken all together, possessed all the powers and all the means. He thought it ought to be on such a footing here. The general government

was one part of the system, the state governments another. Now it was true, said he, that the system, taking all its parts together, ought to have unlimited powers. It was not the design of the amendment to prevent this: It was only to divide the powers between the parts, in proportion to their several objects. [Childs, *Debates*, 123]

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SMITH. On great political Questions men of Abilities frequently differ—The Gent who advocate this Govt. have the advantage of Abilities and habit of public Speaking—

No plausibility of Reasoning cannot change the nature of things or make Truth falsehood—

I stated—that the system proposed was complex system—

That if the State Govts. were to remain they must be provided for & supported—or there would be a consolidat[ion]

The Gent laid down three Points—

1 That it is safe to trust the Govt. with these Powers—on acct. of its formation and that no other Check was necessary—

Answer Every State Constitution in the united States has further Checks—full answers have been given as to Representation in the lower House—

If an adequate Representat[ion] cannot be obtained we must give up a Republican Govt.

If the State Govts. can have no powers to execute Why keep up the Pageantry of State Govts. at the Expence of 1500 Representatives—

If the Genl Govt. adequate why the State Govts.

That People are free where they are Governed by their own will—

Where they cannot meet to express their will they do it by Representation

The more numerous the Representation (within the degrees of practicability) the nearer to freedom—

I admit there should be ballances to the democratic Branch—but the Govt. will be free if No Law can bind the People without their Consent—

In the State Govts. [the people] will have more freedom as more fully represented—

There will [be] a better security for Liberty in the State Govts.

A Republican Govt. if too extensive cannot have an adequate Representation—The fewer the Representation the less Liberty to be enjoyed and the farther the Govt and Laws will [be] removed from the will of the People—

The Gent asks what is a proper Representation? 1 for 4000, or 1 for 30,000—

Answer there may be extremes—1 for 30,000 much too Small—less than the Representation in any Country where there is Representation—

They are too few to know the Minds of the People—

The Gent supposes that when the first Census [is] taken the Representation will be adequate—The like at the 2d Census—the 3d. will render it competent to every purpose—

Therefore It appears that it will be 28 years before the Representation be adequate Remark—In less than 28 years this Govt. if it operates at all will have acquired such Habits & Stability as not to be changed but by force of Arms—

—The Gent. remarked on an Authority I mentioned as to democracy's that it only applied to democracy's where the People gave their Suffrages in person—I am countenanced in this by Mr. Wilson's Representation⁶—

Position That a Republican Govt. over this Country extending to every thing is impracticable—and must end in Some thing else—

It will be asked where shall the Limits be—

It is said this power is necessary—because where you give the End you must give the Means—

Not necessary here—

It is not true that the Charge Power to provide for the common Defence requires the Power of providing the Means—

The King of G B. provides for defence—The Parliament. provide the means—

The Amendment. under Consideration Will not prevent the General Govt. from drawing forth all its Resources—

1st. This Amendment. will give as full to draw forth all the resources—

2d. The Amendment. be more secure for the People—

The Govt. may possibly in some Case fail—so may every Govt which is not a despotism—

The General Govt. will have all Imposts—These Great—the Post Office a considerable Revenue—Tonnage on Vessels a Revenue—These will more than Provide for the Ordinary Times—Taxes and Excises only necessary in Extraordinary Times—

The State Govts. will have as good or better Ability to Collect Taxes and Excises than the General Govt. The People will more readily obey and Support the Laws and the State Govt. will lay the Taxes more judiciously and less Burthensome to the people—

The State Govts. will support the General Govt. If they are hostile on[e] or other must fail—

The Amendmt. itself has a farther Argumt. That if the State Govt does not raise the Money the Genl. Govt can—The apprehension of this will be a powerful incentive both to the Legislatures and the People of the States—The Money will be more effectually raised than as the Clause stands without Amendmt.

The Gent says that the Impost will be one third of the Revenue and the united Genl Govt. must pay 14 fifteenths—
does he include the Interest of National Debt

A large Navy

A Standing Army—

foreign Garisons in Affrica and Asia—

All these we never shall have—

The Expence of the Civil List of the States is about four times as much as the Expence of the Civil List of the union—

We have given more than half the Revenue of the Country to Support less than half the Expence—This Impost will greatly encrease—

Do not wish to confine the Genl Govt. to this Kind of Revenue—

The Amendmt. only proposes Security to the State Govts. and a reasonable certainty of raising the Money—

A Gent. Compares *Requisitions* to voluntary *Contributions*. It does not apply—deliberative Bodies will see the force of Requisitions—

The Genl Govt. could not by direct Taxes have raised as much as have by requisitions been paid—

Could Congress have raised a Tax in Georgia—it was depopulated—She was obliged to turn her resources to her own defence—She claims to have furnished large Supplies—North Carolina & South Carolina Supplied the Southern Army—Impresses were made and the Civil Authority lent their Aid—

South Carolina lent Certificates—The financier [Robert Morris] contracted that what they supplied the Army should be discounted on the requisition of eight Million⁷—

It is said no State made Exertions but those who were the Seat of War—

This is a Mistake—the State of Massachussts. made great Exertions had a large Army in the field—The other Eastern States made great Exertions—Massachussets could not for her load of Inability pay Taxes—

Poverty prevented compliance with requisitions in many States

Congress held up the Impost as nearly sufficient it was agreed to by most States and therefore some States did not distress their People—

The Genl Govt. will raise more Money by requisition than by direct Taxes—An Excise is practicable—The other Impracticable—

If there is no ability to pay they cannot get the Money—If there is any Money the State can raise it—And this will also best secure the People against oppression—and be more secure depository of Power—will best [Possess?] the least oppressive method to raise the Money—

It is said Requisitions will be made for [more] money than wanted to make allowance for defalcation—

Answer The deficiencies in direct Taxes will amount to more than the deficiencies on requisitions—

What will Induce the Genl Govt. to be extravagant in their Demands—

If their Revenue will pay their Exigencies—it will be sufficient—If their Money exceeds they will lay it out—If they call on the States their requis[it]ions will carry some Marks of Propriety—they will demand Money only when they cannot do without it—And this Restriction will save Money—

This Amendmt. will render the Intervention of the State Govts. necessary to the Genl. Govt.—Now the State Govts. are now only Necessary for the Choice of Senators—

This Amendmt. necessary for the Existence of the State Govts.

Gent. ask what Danger from this Govt.

Axiom that Body who has all power and both *purse* and *Sword* has the absolute Govt. of all other Bodies and they must exist at the will & pleasure of the *Superior*

The State Govts. will then exist at the will of the Superior holding *purse* and *Sword* as much as it would in England if the King [had] *both* [McKesson's Notes, NHi]

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ALEXANDER HAMILTON explained— [McKesson's Notes, NHi]

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MELANCTON SMITH. Wherever the Powers are concentrated in one hand or any aggregate Body it is the Same—

This is a Complex Govt.—the State Govts. are component parts of it—

The Genl. Govt. one part and armed with all Power—

I shall Answer his observations at a future opportunity as to the Safety of the State Governmts. and as to concurrent Jurisdictions in Taxes— [McKesson's Notes, NHi]

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JOHN LANSING, JR. The Honorable Gentn from N: York [Alexander Hamilton] said it was easy to give a Turn to any Argumt.— [McKesson's Notes, NHi]

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CONVENTION PROCEEDINGS. The Convention adjourned until three o'Clock P.M. [McKesson's Notes, NHi]

MELANCTON SMITH. I had not intended to finish my observations to day—but as the Gent. (Mr. Jay) says he waits for my observations—I shall now make some Observations as to Excise—

Imposts will regulate itself—

To give the Genl. Govt. a right of Excise several unanswerable Reasons agt. it—

It will affect one or more particular States that manufacture—Therefore will not be gone into—

The Rule given is *Numbers*—The State that has numbers will manufacture—

The Rule will therefore work well—

Another Reason

It is admitted that manufactures in their Infancy should be encouraged not Taxed—

The Genl Govt. cannot encourage Manufactures—The State Governmts. must do it—Therefore the State Govts. should have the Avails & the Power of Excises on Manufactures— [McKesson's Notes, NHi]

JOHN JAY. We have had the Gent. Ideas on the Subject of Excise I wish the Gent Idea on the Subject of Concurrent Jurisdictions— [McKesson's Notes, NHi]

MELANCTON SMITH. I think the Ideas on Concurrent Jurisdiction not accurately Stated—

I also think the Ideas of Concurrent Jurisdiction and a controuling Power May Consist—If they are consistant I then think much objection to the power. [McKesson's Notes, NHi]

JOHN LANSING, JR. The Observations that the State Govts. & Genl Govt. have concurrent Jurisdiction are not Sufficient to convince me—

The Genl Govt. have a power to make Laws which will be the *Supreme Law*—

The Genl Govt. can also designate the *objects* of Taxation and also declare that the *State Laws* shall not operate—

A Gent. from New York [Alexander Hamilton] has instanced two *Creditors*

This State was not *accurate*

If the State Laws operate agt. the Genl Govt. the Laws of the Genl. Govt. must prevail—

Suppose a penny an Acre laid by both Govts. the Lands will bear no more—Then the State Laws must give way— [McKesson's Notes, NHi]

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JOHN JAY. as the Gent has not matured his Sentimts. I will wait until he has— [McKesson's Notes, NHi]

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GEORGE CLINTON moved to proceed to the next Clause— [McKesson's Notes, NHi]

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JOHN JAY. Why proceed—we have not finished the last Clause—a Gent has not matured his Thoughts—another has promised us farther argumts. Shall We then proceed for what—to get home to cut our Grass—

A Chain of Reasoning was given to the Committee with Important Conclusions on Saturday last—These are not answered—One Says The State Govts. and Genl Govt. have concurrent Jurisdictions—another says they have not—This unfinished—why proceed— [McKesson's Notes, NHi]

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GEORGE CLINTON. I did not wish to proceed to a new Clause to prevent new Lights or new Argumts—I wish to hear any Gentlemen on this or any other Clause to morrow—If we cannot now proceed on this Clause why sit Idle—Shall [not] be informed by Sitting Idle and looking at each other— [McKesson's Notes, NHi]

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JOHN JAY. The Impropriety of taking up things by halves does not appear right—I assign these reasons why I do not proceed—

We are Sent here to think as well as Speak—while our Minds are reflecting on this article alone shall we take up a new Article—I do not wish to take up a new Article— [McKesson's Notes, NHi]

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GEORGE CLINTON. I do not wish to hurry any Gentleman—If Gentlemen are not ready the Gent [John Jay] might have moved for an Amendmt. that we should adjourn— [McKesson's Notes, NHi]

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JOHN LANSING, JR. I suppose some Gentlemen wish to adjourn—If not let us proceed to the next Clause— [McKesson's Notes, NHi]

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SAMUEL JONES. We had reason to believe the Gent next to me (Mr. Jay)

This Clause is of great Importance and with the Amendmt proposed affords ample Room for Declamat—

The Clause gives the Genl. Govt. every object of Revenue—

The Objection is that it will Leave the State Govts to be annihilated other Objections that the Genl Govt. cannot exercise it & other Inconveniences—

Neither form a Compleat Govt.—Hence the necessity of so organizing them that they may harmonize—

The Genl. Govt. it is said may obsorbe the State Govts.

on the other Side that the Genl Govt. will be injured or weakened by the state Govts.

The Intention of the amendmts. is to give more power and Stability to the State Govts. and to Collect thro their Medium Certain Excises & Taxes—

The Excise is more properly given to the State Govts. They can do it with more propriety & prudence—And they will not overburthen their own productions—

Object[ions]. We ought not to limit the Quantum of Taxes the Genl Govt. shall raise because we cannot limit their Expences—

but we can limit the Articles they shall Tax—

And this appears proper—

Remark that the Limitation of the Objects of Taxation nothing new—

The Constitution itself has excluded all Articles of Exportation—

The Amendment full as proper and more expedient—

Time may come when both these Articles are improper—at That time both will be amended—

Some Articles should be appropriated to the State Govt as many are to the Genl. Govt.—

If there is any such Thing as a Concurrent Jurisdiction it is founded on Induction and reasoning—

Can there be a Concurrent Jurisdiction and no Supreme Power—Then there will be two Supreme Powers—

They must [be] referred and determined by different Judicatories, or

will they then receive an uniform determinat[ion]

This will not arise from Corruption but from the different opinions of different men—

Will not the Clause admit of different Construction—yes—Can two Supreme Powers prevail—It is capable of a contrary Construction—will it not receive—

In Adjudicat[ion] will not the Interest of the Public prevail agt. a private Interest—

The Inconveniences attending it are sufficient to put it in a different Train—

What Misschiefs will arise between two Govts. each Supposing itself right and acting as they think right—

Next the Inconvenience of Genl Govt. exercising direct Taxation—It will be difficult—it cannot be exercised with propriety and prudence—

It requires more accurate acknowledge [i.e., knowledge] than any part of Govt. to lay direct Taxes—Can Six Men apportion the Taxes in this State—I[t] requires a knowledge of each particular part of the State—

It is said the Genl Govt. may adopt the mode of Taxation adopted in each State—Suppose this how apportion the Taxation among the Counties—The No. in N York 22,000—West Chester nearly the Same—

The Tax Laws vary every year as Circumstances differ

Therefore these will be no guide—

If the Supervisors are to distribute it—who are they—they are changeable daily—

In every light insurprable Difficulties appear on this Clause—

Adopt the Amendmt. the difficulties are removed—

If requisition is a ~~different~~ an Improper Term Strike it out and insert Notice or any other Term—

I am convinced they cannot exercise the Power thro The Genl Govt. This Amendmt proposed by other States it will be an agreeable Amendmt.

It is said the Amendmt. is only a *Requisition*

Here is a power to compel this paymt. then why not be executed—

I do not say the Genl Govt cannot Lay or Collect Taxes but I do say they cannot do it fairly & properly—

They will have power while they Execute it honestly and justly—

It is said this mode will take from the Power of Borrowing—And that no Man will lend on this power—Answer—The One Security as good as another

Objections—There will be delinquencies—So there will if direct Taxation is given—

There is now deficiencies in our Own State—

Some Towns or Counties pay the whole others but a part—

This happens in all Countries—No Country pays the whole Tax—
The Amendmt. after examining all the Argumts. appears to me to be such as will operate properly—enable the states to Support their Govts. and enable the Genl Govt. to support itself and assist to establish it and be of general Utility—

I should be willing to amend the Amendmt. by excepting *in Time of War* [McKesson's Notes, NHi]

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JOHN JAY. I think Gentn mistake *Excises*

I tho't that Gent meant that our own Manufactures should be free of *Excises*—

The Gent says both Govts must [be] Supported—true

The Genl Govt. can absorb all the Resources what shall Support the State Govts. The Gent says Excises on their own Manufactures

This is a new Idea—and not the Idea that produced the Amendment—

The Gent. Said that *Concurrent Jurisdiction* was mere matter of Construction—It must be a Doubtful in construction because Gent differ about it—does the Amendmt. prevent this—

The Amendmt only Says Congress shall not Tax domestic Manufactures—And that Congress shall not lay direct Taxes but first make Requisitions—

What are direct Taxes—I thot a poll Tax a direct Tax—

It is said in Case of Refusal Congress [may] levy tax or lay a poll Tax—

Then Congress are to lay a poll Tax—Another Gent says Congress shall not lay a poll Tax—

What are direct Taxes— [McKesson's Notes, NHi]

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SAMUEL JONES. Proper to explain my Ideas of a poll Tax

I consider a poll Tax as a direct Tax—

I said if the[y] proceeded by Requisition and were unpaid they would then lay a poll Tax or any other Tax until their requisition was obeyed—

I say An Excise will give Govt. a certain Fund to which they can at all Events recur if every other Source is taken away—

It is objected that the Amendmt. does not prevent a Concurrent Jurisdict.

I think the Genl Govt. has a Supreme Jurisdiction—and that the State Govts. cannot take it from them & perhaps they should retain it— [McKesson's Notes, NHi]

1. Yates refers to the notes that he took in the Constitutional Convention on 18 June 1787, the day that Alexander Hamilton proposed his “plan” of government for the United States. For these notes, see Farrand, I, 294–301.

2. Under Roman law, the creditor had a hold on the person of the debtor, not on his property. Unless a special agreement was made, the debtor’s property was not a pledge for the debt. In short, the creditor could not touch the debtor’s property. In the first centuries of the Republic, the creditor could imprison the debtor for sixty days; if the debtor still did not pay, the creditor could sell him as a slave or put him to death. If there were several creditors, they could cut the debtor’s body into several pieces and divide the pieces among them.

3. In 1743 in the case of *Rex v. Broadfoot* in the Court of King’s Bench a justice ruled that “the right of impressing mariners for the public service is a prerogative inherent in the crown, grounded upon common-law and recognized by many acts of Parliament.” However, the right was to be exercised only over seamen, and the impressment warrants had to be executed by a commissioned officer.

4. One of the amendments proposed in the Maryland Convention but not adopted, stated “That Congress have no Power to lay a Poll-Tax.” (See CC:716.)

5. A reference to the English window tax, which Williams used before. See Convention Debates, 27 June, at note 8, and note 8.

6. Probably a reference to James Wilson’s speeches in the Pennsylvania Convention on 24 November or 4 December 1787. See RCS:Pa., 341ff, 352ff, and 497.

7. See Convention Debates, 27 June, note 10 (above).

Newspaper Report of Amendments Proposed to the Constitution by Antifederalist Convention Delegates between 20 and 26 June 1788

On Saturday, 28 June 1788, Melancton Smith wrote to Nathan Dane, a Massachusetts delegate to Congress who supported amendments to the Constitution, giving Dane his thoughts on amendments and seeking Dane’s thoughts on the matter. Smith enclosed a copy of “the amendments as far as they have been offered” in the New York Convention. By 28 June, five amendments had been proposed and the fifth was still being debated. (For Smith’s letter, see RCS:N.Y., 2015–16, and for Dane’s 3 July reply, see RCS:N.Y., 1254–59.)

James Miles Hughes, the son of Antifederalist polemicist Hugh Hughes, carried Smith’s letter of 28 June to Dane in New York City. Either Hughes (probably the “gentleman just arrived from Poughkeepsie” mentioned in the *New York Journal*, or Dane possibly gave a copy of the five amendments to Thomas Greenleaf, the Antifederalist printer of the *New York Journal*, who printed them in his paper on Monday, 30 June. Another possibility is that Greenleaf may have obtained a copy of the amendments from New York congressman Abraham Yates, Jr., who had been sent copies of the proposed amendments by Convention delegate Henry Oothoudt in letters dated 21 and 27 June (VI, below).

The amendments—as printed by the *New York Journal*—were reprinted by the *New York Packet* and *New York Museum*, 1 July; the *New York Journal*, 3 July; the *Lansingburgh Federal Herald*, 14 July; and in seven newspapers outside New

York by 17 July: N.H. (1), Mass. (1), N.J. (2), Pa. (2), Md. (1). For the reprinting of the prefatory statement to the amendments, see note 1 (below). The *Massachusetts Gazette*, 8 July, reprinted the amendments under a New York heading of 1 July, preceded by a paragraph critical of the notion of amendments. The *Massachusetts Gazette* apparently took both the amendments and the paragraph from the *New York Packet* of 1 July, although the two items were separated by several paragraphs in the *Packet*. The paragraph that was critical of amendments had first appeared, as part of a longer piece, in the *Hudson Weekly Gazette* on 17 June. For this longer piece, see RCS:N.Y., 1200–2.

The paragraph as it appeared in the *New York Packet* reads: “Who can be so stupid as not to see, or so uncandid as not to confess that the doctrine of amendments to the proposed Constitution is reduced to a mathematical certainty against them, previous to its adoption? It is now asked the members of Convention, assembled at Poughkeepsie, whether they have the vanity to suppose that this State will be able to dictate amendments to the new system, in which all the other States will concur? We conjure you to lay aside party feelings, to be candid, to think how we suffer as a people, to view the situation of our western country, and behold us intercepted and robbed of the fur trade, and our late enemy possessing strong holds, which are, palpably, breaches of every thing sacred; and shall we suffer this, and numberless other wrongs, merely on account of a few imaginary defects in a proposed republican, energetic, Government? Government springs from the people, and in these States from an enlightened people; who will not be duped, who are not about to be made slaves—will that people, who, in the years 73 and 74, as it were, like a band of brethren and freemen, with one voice and consent, nobly and avowedly resisted the first attacks, on a very trifling subject, to enslave them; we ask, have that people so far degenerated, as not to have that same flame and spirit of liberty touch them, whenever they see their rulers, attempting to be *arbitrary*: We despise the idea, we are able of ourselves to awe tyranny—and who are these people that are about to enslave us? our countrymen, our brethren, chosen from among us—divided, we perish; united, we shall arrive to the state of a respectable, great and happy people.”

The FIRST AMENDMENT was proposed on 20 June by Melancton Smith at the end of his speech responding to Robert R. Livingston’s speech of 19 June opening the debates on the Constitution.

The SECOND AMENDMENT was proposed on 24 June by Gilbert Livingston during the debate on Article I, section 3, clause 1, of the Constitution.

The THIRD AMENDMENT was proposed in two parts. The first part (in angle brackets) was proposed on 25 June by Samuel Jones during the debate on Article I, section 4, clause 1, of the Constitution. The second part was proposed by John Lansing, Jr., on 26 June, during the debate on the same clause. Lansing’s proposal was a modification of a proposal submitted by Melancton Smith on 25 June and resubmitted by Smith on 26 June.

The FOURTH AMENDMENT was proposed on 26 June by John Lansing, Jr., during the debate on Article I, section 6, clause 2, of the Constitution.

The FIFTH AMENDMENT was proposed on 26 June by John Williams during the debate on Article I, section 8, clause 1, of the Constitution.

New York Journal, 30 June 1788

Convention of New-York.

By a gentleman just arrived from Poughkeepsie we learn, that the Convention of this state had proceeded no further in their deliberations on the new constitution, and the amendments proposed thereto, than that part thereof which relates to the power of Congress to lay and collect taxes, duties, imposts, excises, &c. The debate on this subject commenced on Tuesday [24 June], continued until Saturday [28 June], and lies over until Monday for further deliberation. It was principally managed by Mr. Smith, Mr. Hamilton, Mr. Chancellor Livingston and Mr. Lansing. The same gentleman also informs us, that the Convention, on Saturday last [28 June], had come to a determination to shorten their session as much as possible, by sitting twice a day.¹

In CONVENTION, at *Poughkeepsie*, the following AMENDMENTS have been proposed by the gentlemen whose names are annexed, and are under consideration:

[1.] Mr. M. SMITH. *Resolved*, That it is proper, that the number of representatives be fixed at the rate of one for every 20,000 inhabitants, to be ascertained on the principles mentioned in the 2d sect. of art. 1st of the constitution, until they amount to 300, after which they shall be apportioned among the states in proportion to the numbers of the inhabitants of the states respectively; and that, before the first enumeration shall be made, the several states shall be entitled to choose double the number of representatives for that purpose, mentioned in the constitution.²

[2.] Mr. G. LIVINGSTON. *Resolved*, That no person shall be eligible as a senator for more than six years in any term of twelve; and that it shall be in the power of the legislatures of the several states to recall their senators, or either of them, and to elect others in their stead, to serve the remainder of the time for which such senator or senators, so recalled, was appointed.³

[3.] Mr. JONES. *Sec. 4, art. 1.* (*Resolved*, As the opinion of this committee, that nothing in the constitution now under consideration, shall be construed to authorise Congress to make, or alter, any regulations in any state, respecting the times, places, or manner, of holding elections for senators or representatives, unless the legislature of such state shall neglect or refuse to make laws or regulations for the purpose, or from any circumstance be incapable of making the same, and then only until the legislature of such state shall make provision in the premises.) And that nothing in this constitution shall be construed to prevent the legislature of any state to pass laws, from time to time, to divide such

state into as many convenient districts as the state shall be entitled to elect representatives for Congress; nor to prevent such legislature from making provision, that the electors in each district shall chuse a citizen of the United States, who shall have been an inhabitant of the district for the term of one year, immediately preceding the time of his election for one of the representatives of such state.⁴

[4.] Mr. LANSING. *Sec. 6, art. 1.* No senator or representative shall, during the time for which he was elected, be appointed to any office under the authority of the United States. And no person holding any office under the United States, shall be a member of either house during his continuance in office.

[5.] Mr. WILLIAMS. *Sec. 8, art. 1.* That no excise shall be imposed on any article of the growth or manufacture of the United States, or any of them. And that Congress do not lay direct taxes, but when the monies arising from the impost and excise are insufficient for the public exigencies; nor then, until Congress shall first have made a requisition upon the states to assess, levy, and pay their respective proportions of such requisition, agreeably to the census fixed in the said constitution, in such way and manner as the legislatures of the respective states shall judge best; and in such case, if any state shall neglect or refuse to pay its proportion, pursuant to such requisition, then Congress may assess and levy such state's proportion, together with interest thereon, at the rate of six per cent. per annum, from the time of payment prescribed in such requisition.⁵

1. This prefatory statement was reprinted in the *New York Museum* on 1 July.

2. For a commentary on this amendment, see Philip Schuyler to Henry Van Schaack, 26 June (VI, below).

3. See note 2 (above).

4. For commentaries on this amendment, see Cornelius C. Schoonmaker to Peter Van Gaasbeek, 25 June, and Philip Schuyler to Henry Van Schaack, 26 June (both VI, below), and Abraham G. Lansing to Abraham Yates, Jr., 29 June (RCS:N.Y., 1235).

5. For commentaries on this amendment, see Melancton Smith to Nathan Dane, 28 June (RCS:N.Y., 2015–16); and Abraham G. Lansing to Abraham Yates, Jr., 29 June (RCS:N.Y., 1235–36).

The New York Convention Tuesday 1 July 1788

Convention Debates, 1 July 1788

The debates of this day have been compiled from Francis Childs's *Debates*, John McKesson's notes, Robert R. Livingston's notes, Melancton Smith's notes,

and an abbreviated version by Childs in his *Daily Advertiser* of 8 July. The *Daily Advertiser's* version was reprinted in the *New York Morning Post*, 9 July; *Massachusetts Centinel*, 19 July; *Salem Mercury*, 22 July; and *Richmond Virginia Gazette and Weekly Advertiser*, 24 July. Childs's newspaper account of the debates for 1 July also reported on the debates of 2 and 3 July, which were also reprinted by the newspapers listed above. The reports for the latter two dates are printed below under those days.

On 10 July Thomas Greenleaf reprinted a shortened version of the *Daily Advertiser's* report on the debates of 1 July, with some changes, in his *New York Journal* (Mfm:N.Y.). Significant changes are noted below in footnotes 12 and 23. Greenleaf prefaced his reprinting: "Sect. 8. of art. 1, still under debate, which respects *the powers of Congress*. (Many very interesting and severe debates were had in the tedious discussion of *this section*, which lasted *seven days*; those debates we have not been able to ascertain.)" On 21 July the *Lansingburgh Federal Herald* reprinted Greenleaf's version.

MELANCTON SMITH observed, that he supposed the states would have a right to lay taxes, if there was no power in the general government to controul them. He acknowledged that the counties in this state had a right to collect taxes; but it was only a legislative, not a constitutional right—It was dependent and controulable.¹—This example, he said, was a true one; and the comparison, the gentleman [John Jay] had made, was just; but it certainly operated against him. Whether then the general government would have a right to controul the states in taxation, was a question which depended upon the construction of the constitution. Men eminent in the law had given different opinions on this point. This difference of opinion furnished to his mind a reason why the matter should be constitutionally explained.—No such important point should be left to doubt and construction.—The clause should be so formed as to render the business of legislation as simple and plain as possible. It was not to be expected, that the members of the federal legislature would generally be versed in those subtillties, which distinguish the profession of the law. They would not be disposed to make nice distinctions, with respect to jurisdiction. He said, that from general reasoning it must be inferred, that if the objects of the general government were without limitation, there could be no bounds set to their powers; that they had a right to seek those objects by all necessary laws, and by controuling every subordinate power. The means should be adequate to the end—The less should give way to the greater. General principles, therefore, clearly led to the conclusion, that the general government must have the most compleat controul over every power which could create the least obstacle to its operations.

Mr. Smith then went into an examination of the particular provisions of the constitution, and compared them together, to prove that his

remarks were not conclusions from general principles alone, but warranted by the language of the constitution. He conceived therefore that the national government would have powers, on this plan, not only to lay all species of taxes, but to controul and set aside every thing which should impede the collection of them. They would have power to abrogate the laws of the states, and to prevent the operation of their taxes; and all courts, before whom any disputes on these points should come, whether federal or not, would be bound by oath to give judgment according to the laws of the union. An honorable gentleman from New-York [Alexander Hamilton], he said, had dwelt with great attention on the idea that the state governments were necessary and useful to the general system; and that this would secure their existence. Granting that they would be very convenient in the system, yet, if the gentleman's position were true, that the two governments would be rivals, we had no need to go any further, than the common feelings and passions of human nature; to prove that they must be hostile, and that one or the other must be finally subverted. If they were mutually necessary to each other, how could they be rivals? For in this case, lessening the power of the states would be only diminishing the advantages of the general government. Another source, from which the gentleman would derive security to the states, was the superior number of the state representatives—Mr. Smith apprehended however, that this very circumstance would be an argument for abolishing them. The people would be very apt to compare their small importance and powers, with the great expence of their support. He then went into an examination of another source of security, which the gentleman [Alexander Hamilton] had pointed out; that is, the great number of officers dependent on the states; and compared them with those of the United States, and concluded with observing, that he (Mr. Smith) was one, who had opposed the impost: He was also opposed to the constitution in its present form—He said he had opposed the impost, because it gave too much power to a single body, organized as the old Congress was; and he objected to this constitution, because it gave too much power to the general government, however it might be organized.² In both, he said, he stood on the same ground, and his conduct had been uniform and consistent. [Childs, *Debates*, 123–24]

SMITH. I admitted that the Genl Govt. and State Govts. would have Concurrent Jurisdiction.

I meant that they would have concurrent Jurisdiction but under the Controul of the Legislature of the Genl Govt.

We find very great difference of Opinion between men of the first Legal Abilities whether this Concurrent Jurisdiction can be controuled by the Genl. Govt. or not—

Should this be left Doubtful—No

See the Introduction [i.e., the Preamble]—They are to seek the Ends there mentioned

This they will do by Laws of their own or by controuling the Laws of Others—

The Induction fair—That they will be supreme and have Power of Controul—

The Power of Taxation given without restraint (except in one Case)

They are to Make all Laws

Their Laws are to be

They are to appoint Courts and Judges to carry their Laws into Effect—

All Judges &c to take an Oath

The Power given by all these Clauses are not only to lay *Taxes* but also to controul and remove out of their way all Impediments to the Collection—

And all Courts will be bound by the Constitution and by Oath to declare the Law Valid—

Gent from N York [Alexander Hamilton] observes That all Powers not given expressly are to the State Govts.

The Rule does not apply if Just—because here the Genl Power of Taxation

The Powers of the Genl. Govt. give them all Power of Taxation—It is physically impossible that there should be two Supreme Powers for the same Purposes at the Same time & place—

That what is not given must remain in the State Sover[e]ignties—
Negative

Because both Govts. are derived from the People—The Genl. Govt. not derived from the State Govts.

As to the Security of the State Govts.

It is said the Genl Govt. can have no Inducement. to destroy the State Govts or reduce them to dependency—And that they will be necessary—If true as he admits. That there will be a jealo[u]sy or rivalry of Power

It is said that a Numerous representation
this will be an Argumt. for their reduction

It is said the No. [of] offices will be a Support to the State Govts.

Answer—The Genl Govts. will have vastly more numerous and more Important Offices—Ex gr. [i.e., e.g.] Judges of Sup. Court—Judges of inferior Courts—with all their Inferior Officers—Revenue Officers &c

Nothing but Militia Officers left for State Appoint[ment]s—
 Gent. [Alexander Hamilton] says the State Govts. will retain the Affection of the People

This a good Argumt. for retaining Taxation in the State Govts. and every other Thing that can be retained Consist[en]t with Safety to the Genl. Govt.

I was opposed to the *Impost* as required by *Congress*—It was giving too much revenue and Power to one Body— [McKesson's Notes, NHi]

SMITH. State government may be *controuled* by gl. govt.—Lawyers differ—

Doubt shd. be cleared up—

Legislatures will construe as he does—

Officers govt. must swear to preserve Const

power includes right to remove impedaments to exercise—

People make State & Genl Govts. therefore some principles common to both—

No danger because State govt. necessary to carry them into effect—

Thus reduce them to *dependence*

Only place *magistrates*—

People may *hereafter* reduce representation—

Ques: people reason worse hereafter than now— [Robert R. Livingston, Notes, NHi]

SMITH. ~~The power.~~ I admitted that the States wd. have concurrent jurisdn., in laying taxes, but I did not mean by this that they would have supreme, or uncontrollable power on this head—Two powers may exercise jurisdiction over the same object, and yet both be subordt. to a higher, and the one subordt. to the other—

This is in fact the case in a variety of Instances—The cases of taxes adduced, are in point—The Counties have authority to lay taxes as well of the State—But the power of the former is under the controul of that of the latter—

Whether the gen. government will have a constl. right to controul that of the States, depends upon the Constrn. of the Cons.—Men of eminent professl. abilities have favd. us with their sents. and hold diff. opins—when Doctors disagree—what is to be done—

This conclus. fair, that in establishg. consti[t]ut[ion]s—in matters where the esl. rights of the people are concerned nothing shd. be left to doubtful construction—

The Const. in the first instance is to receive its expl. by the Legislature—It is not to be supposed they are all of them to be men [of] legal knowledge—They will therefore understd. it according to the

most obvious and natural construct.—witht. having recourse to those nice dist[inction]s & subtle reasonings for which the profession of the Law is renowned.—How then will they reason on that subject—

The genl. govt. is vested with the supreme power of the union—the express design of this is to “form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare & secure the blessings of Liberty to ourselves and posterity.”

They are to seek these ends in the exercise of the powers, in such way as their prudence may direct, either by ordaining pos[i]t[i]v[e] rules, or controuling other subordt. powers—for the means shd. be adequate to the end—lesser Interests shd. submit to greater—There would appear no restrictns Except positive restraints or prohibitions—thus reasg. upon general prins., a controuling power wd. appear to be vested in Congress, by fair induct[ion]—

But it does not depd. upon inference from genl. principls—The power to lay taxes is expressly given in all its latitude & extent—and that no doubt might remain, whether the general govt. shd. possess all incid[enta]l powers—It is declared they shd. have all powers proper & necessary for carrying it into effect—and lest it might yet be supposed this power might be impeded in its exercise by the States, it is [stated] that their Laws shall be the suprem[e] Law of the Land, any thing in the Laws & Const. of the States to the contrary notwithsg.—& lest some obstr. shd. arise in executg. the Laws, they appd. courts to decide & over & above require an Oath of all the offc[s]. of the States to sup[por]t the Const.—

The power to lay & collect taxes & to make proper & necessary Laws, must [certainly?] include in it, not only to provide by Law for the direct exercise of powers to raise a tax—But also for removg. out of the way every imped. that will prevent it—to controul all circumstances that may retard—to restrain & subjt. every power that rises up against or interferes wt. it—

From hence, I think it follows clearly that whenever the St. Govts. interfere wt. the general gov.—they may controul them—whenever their Laws, if executed counteract the Laws of the gen. govt. to declare them void—

It was well observd. yesterday, that the Idea of two supremes con[current] on the same object, it seems a contradiction—two powers to tax may exist, if they have a common umpire—&c—

A hon Gen. fm N.Y. [Alexander Hamilton] has advanced a principle, fm wh. he has reasoned to prove the jurisd. is concurrent, or as he explains it, supreme & uncontrollable, in each Gov.—it is this—That all powers not expressly granted, in this constitution are reservd. to the

respective sovereigns—contrary to what it is in del[e]g[at]ing to State Legisl. for there all power not reserved is given, except as [natl. rights?]
—The reason he says is, that in the one case sovereignties already exist and they cannot be divested of powers by implication—he infers fm this that a state can be deprivd. of a power only in one of 3 ways either by its being given exclusively—given in one clause to the genl. govt. and taken away from the States by another—or where it is p[h]ysically impossible both shd. exercise it—

Suppose the distn. just, it does not invalidate the [– – –] reasonig—
The power of the gen. govt. in regard to taxes in general, extends to every circum. resp. the collect—and the States are subordt. to the gen. govt. in every power it [exercises?] const[itutionally].—It is p[h]ysically impossible, that the State govts. can have the same power—
The genl. govt. has a power to controul every circum. impd the Coll. of a tax, whether by State Laws const or otherwise—Now it [is] utterly imposs. that the state can have a power to controul every circum. resp. a Tax, when by Laws of the general govt. or otherwise—this wd. be to suppose two powers, both suprem[e] & both subordinate to each other—

As to the principle that all power not given is resd.—I do not see how it applys to the general more than to a State govt—If the States delegated power it might—but—in this case, both are derived from the same source the people—and both are to be construed the same way—It is true there is this difference, in the State govts., Legisl. powers are given in general terms—here partl. objects of Leg. powers are given in genl. terms, but the same rule of interpr. applies in both—the people in 1777 give power to one Body in 1788 to another—the grant of 1788 annuls the former so far as they are inconsistent, with[ou]t saying in express words it does so—

It is said the gen. govt. will have no inducement to destroy the State—or to encroach they are necessary props—

If they will be rival powers, as is admitted, sufft inducemts. in the passions of [them?].—

The State govts. not necessary. to execute their Laws—

But supposing them useful & necessary. props, they will have ind[ucemen]ts to reduce them to a State of entire depend[ence] & subord—

sd. The State govt. will have more numerous Repr—This I fear will be used by & by, to persuade the people to consent—to abolish them—as the expence will be sd. to be needless—

sd. to have more Offices in their gift—This I suppose not true, as it respects offices wh will be objects of ambition—

The judiciary wh. all dependts.—Revenue—

sd. More the Confidence of the people—this will be withdrawn, when they app[ea]r—an empty form—

Observe, upon the assertn. that Gent. who opposed the impost incons[isten]t— [Melancton Smith, Notes for Speech, N]

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SMITH. In our CONVENTION, on Tuesday last, Mr. M. SMITH opened the debates of the day by an explanation of his arguments of the day before. [*Daily Advertiser*, 8 July 1788]

* * * * *

JAMES DUANE addressed the committee, in a long and elaborate speech. He commenced with an explanation of the motives which induced him to bring forward the public papers,³ which had been lately read: Declared that he had in that matter been actuated by no personal designs, no possible disposition to censure the conduct, or wound the feelings of any man—that his sole object was, to furnish the committee with the most convincing evidence, as to the merits of the constitution. He then went into a particular examination of these exhibits; painted the situation of the country, at the period in which they were written, and illustrated and enforced their testimony. In the course of this investigation, he introduced and commented upon Gen. Washington's circular letter;⁴ and concluded, that all this evidence afforded complete proof that requisitions had ever had an unhappy and fatal operation; that they would never answer the purposes of government; and that the principle ought to be forever discarded from our system. He then proceeded to enforce, by a variety of considerations, the argument respecting the propriety of the general government's being unrestricted in the exercise of those powers, which were requisite for the common defence—spoke of the necessity, that might in future exist, of maintaining large armies and navies; said that he, even in his old age, hoped yet to see the United States able, as well by sea as by land, to resent any injuries that might be offered them. It might very soon appear how necessary a powerful military might be. Occasions the most pressing were not even now wanting—The British, to this day, in defiance of the treaty of peace, held possession of our northern posts. This was the highest insult to our sovereignty. He hoped that these daring invasions would rouse the indignation of the United States. He had heard it surmised, that the general government would probably never oblige the British to quit these posts: But whenever, said he, I find the union guilty of such pusillanimity, I shall regret that I ever drew my breath in this country.

Mr. Duane then animadverted upon the reasoning of his opponents respecting the causes of the delinquencies of the states; and compared

the exertions of the states, with their different situations and circumstances, in order to prove, that the deficiencies could not have arisen from poverty or distress. He declared that all, which had been advanced by opposition on this head, was totally unsupported by facts. The gentleman next proceeded to discuss the question of concurrent jurisdiction, and the particular advantages, New-York would derive from excises on our manufactures; spoke of the difficulties and embarrassments which would result from the proposed amendment;⁵ and concluded with a comparison of the new to the old system, and some general encomiums on the excellences of the former. [Childs, *Debates*, 124–25]

DUANE. On Thursday last [26 June]—This Amendmt. was proposed—These Arguments have been extended to great Length—

The Gentleman [Melancton Smith] might have spared his observations as to his opinion of the Impost and this Constitution—

The Gent should have spared the Observation that a Gent [Alexander Hamilton] had Talents to pervert any Sentiment—

I shall Stick to the Point—and to the Expression of their Observations

The Gent from Dutchess [Melancton Smith]—said the Constitution was complex—and that provision Should be made for the Members—

2d The Members vizt. State Govts. should have the Means of Support—The Gent. compared this Govt. with Great Britain—

That as in G B. the Power of Defence in the King—The Purse in the Legislature—

No Similar[i]ty—The Presidt. Will have the *Sword*

To Leave the Purse in the state Govts. would be in 14 Hands—

His next Observat important—

He is *certain* the different States will comply to the Extent of their *Power*

I will assign my Reasons to believe the States will not comply—

From past Experience we cannot expect it—

I shall offer papers as Evidence That the Affairs of this Country were embarrassed and nearly ruined by the dilatory Proceedings not to the Inability of the Several States and to their making unequal Exertions—

In this view was read

The Answer of the Senate to his Excy the Govr. [9 September 1780]

This proves there was great Embarrassmts. owing to the want of Exertions in Some States—And a want of union in Council—

It will be said these Resolutions originated in fear or a want of fortitude—I cannot say or think so of the Fathers of this Country—

A second Resolution 8th. [i.e., 10th] Octr. 1780

That Congress direct the Commander in Chief to march the Army to compel the paymt. of Deficiencies—

In the year 1781—21 Novr.

A Resolution requesting Congress to suspend any future Requisition—That They had granted the Impost⁶—

A passage in a Circular Letter from Genl Washington to the respective Governors on resigning his Command—

“That the War would have been brot much sooner to the same happy Conclusion if the Resources of the Continent could [have] been called forth”⁷

I produce these as conclusive Proofs agt. depending on requisitions—

This is conclusive on my Mind—

I have had long Experience—been often concerned in making Requisitions⁸—And they failed—No Case can happen which the Passions & wishes of Men were more concerned

~~In Answer to~~

The Gent. from NY. Hamilton said that the Civil List was only one fifteenth—

The Gent. from Dutchess [Melancton Smith] says we have no foreign Posts & ca

Our Expences for Defence &c trifling—

That we have given more than half the Revenue to pay much less than half the Expence—

This Govt. is made for future Ages—I hope to see a Navy—That we must have

I do not wish to see a Standing Army—but we must have Troops—Our Posts are detained by the British—

It has been said [if] this Govt. takes place the Posts would Still be retained

Is the Spirit of America fled—

Can it be of Moment what our present Circumstances are—

I doubt whether our State Debts are greater than those of the Union—They will however be somehow done away⁹

This Justify a retention of have [i.e., half?] the Revenue of the Nation—

The Gent. [Melancton Smith] is become a generous Advocate for such States as were deficient—

Assigns their Inability—and their Exertions in some States for their own Defence—

I recollect great difficiencies—
 Money Requisitions for two years unproductive—
 Requisitions for Supplies were also unproductive—
 Georgia was Invaded—She recd. from Congress Supplies in Money—
 So did New York—Georgia has repaid Nothing—New York has—
 That they were defective thro Inability is not supported by proof
 Genl. Washington tells you they could have done—And their Exer-
 tions were not made in Proportion—

Examine Genl Washingtons Letter—His Testimony never can be
 doubted¹⁰—

The Gent. had given another Opinion which is a Melancholy Obser-
 vation

That a Direct Tax laid by Congress cannot be collected

What then will be the Effect of the union if under no Circumstance
 the States would not Submit to a Tax—

All the Amendt. says and the other Gent say that there should [not]
 be a direct Tax in the first Instance—

But if the Gent from Dutchess is right in his opinion why wast[e]
 Time on such a Visionary Matter—

The Gent. alledges that the Genl. Govt will destroy the State Govts.
 That they will only meet to chuse Senators—

How are they employed at present—

The only difference will be at present the State raises the Impost—
 That will be consigned [to] others—They will have all the other Cares
 and Business they now have—Then why the fear that the Legislatures
 themselves will get out of Disuse—The Legislature have now nothing
 to do with the Common Defence—

2d.

As to the dissolution of the State Govts.

If there should be a dissolution of the State Govts. it will dissolve the
 National Govt.

When the preservat of the Genl. Govt depends on the Existence of
 the State Govts. will they suffer any measures that will destroy their own
 members—

If this Constitution is to be scanned with an Eye of Jealo[u]sy it is
 impossible it should take place—

Now Consider the Argumt. on the Clause that no Excise be laid on
 manufacture—

Can the Gent say this Tax will operate unequally—

The States who are the Subjects of this Tax have adopted the Con-
 stitution

We are not & for many years cannot be a manufacturing State—

This Tax will operate equally—What the Consequence if no such Provision made—

If Connecticut Manufactures so as not to import She will be rich, we will pay Imposts—It is said Impost will find its Level—That is I suppose it will always be at a medium—or be entirely defrauded¹¹

These States see the Justice of this Tax and are willing to give it—Then why should we agt. our own Interest object to it—

The Gent [Melancton Smith] Said this Excise on Manufactures a *partial Tax*—

I say it is an equal Tax and given in Lieu of Impost

It is said Congress will [not] adopt it—Then why oppose—if not to [be] adopted it concerns no man—

It is said In the present State of the Country Excise on Manufactures would be Improper—

An Excise on Ardent Spirits would raise a considerable Revenue and be productive of Morality—

While such would be improper it will not be done—A Time may come when it will be the most proper source of Taxation—Then why exclude the Power—This Constitution is made for Ages—

Now as to the Argumt. of the Gent from *Queens* (Mr. Jones)—He observes the Constitution gives Congress Power over every possible Mode of Taxation—That the Head subsist without the Members—That there must therefore be some Means of Support for the State Govts.

All agreed to—

I shall shew there is ample Provision

As to concurrent Jurisdiction—It is out of all Doubt there is such Concurrent Jurisdiction and each have equal Power—

Each State before this Constitution has a right of Taxation—

8th. Section gives Congress certain Powers without any Negative

By § 10 the States are prohibited in a certain Case—then it follows by necessary Consequence that the States may Tax in all other Cases—

If they have a right to tax as well as the Genl Congress they have the Means of subsistance as well as the Genl Govt.

The Proposal of Excise on Manufactures to support the State Govts. is therefore unnecessary—It was unnecessary to say in the Constitution there should be a concurrent Jurisdiction—or that a Clause Should have been added to reserve Rights which were not ceded.

The Gent [John Lansing, Jr.] says in Case of a Dispute between the States about the right to tax a person taxed by both is unable to pay both it is said the Genl Govt must be preferred—

I think differently—The thing seized must belong to that Govt. to whom The Tax book first made did belong—or who first Seized—

The Sovereignty of the States only cease as to particular Rights ceded to the Genl Govt. for public purposes—

Suppose it Tryed by the Judges of the united States—

Must they not find that the State had the power to tax and the Article seized must belong to the Govt. who first made the Seizure—

It is said it will be impracticable to apportion a Tax throughout the united States—

Answer—This Legislature will be composed of Representatives from every State will they not be adequate—

There will [be] the Tax Laws of the Several States—they will give Informat—

Any of the Servants of Congress may obtain the names of the Collecting officers—The Supervisors may be called on—

Observat—That the requisition by this amendmt. not like those made under the Confederation—

Where is the great Difference—

Suppose a State not to comply their reasons will be heard & Canvased—

The People will take part with their Representatives—

The Genl Govt. will lay the Tax—and order it to be collected

In that Case it could not be collected—An officer would not dare to attempt it—Shall this Committee consent to an Amendmt which will produce Mischief—

We tryed Requisitions 12 years what was the Event—

The Virtuous State of New York did what She could—Genl Washington called and Congress called but called in Vain—have we forgotten this—The Legislature called out for an efficient Govt. remember this—

It is said If Congress can compel paymt. in the first and last Instance It will operate as a *fine*

Answer This is to be a fund

Those who Lend will require a *fund* to be certain—

A foreigner would tell you the fund is uncertain—

Loans should only be recurred to in Cases of Necessity—To a certain Extent Taxation is preferable to Loans—Loans increase the National Debt and weigh us down—

It is said Some will pay all and Some None—

Answer—The ~~Revolting~~ Defaulting State may be retaxed—The States having paid may be credited in Proportion—

The Gent from Queens [Samuel Jones] admits that in Time of War this Power of Taxation may become necessary—

True—And why should not Congress have every power necessary to draw out every Resource—

Can they provide for the Genl Defence if you tie their Hands—

I shall take another Opportunity to consider the Capitation Tax—

Consider that the States differ in Interest Business and employmt. and are all to be gratified—In that View *This Constitution is the highest Effort of Human Wisdom*

I came here with conciliating Principles—I hope God has given Me a conciliating Talent— [McKesson's Notes, NHi]



DUANE. *The MAYOR of New-York* followed him [Melancton Smith] by a long and well detailed speech in answer to the objections that had been made against the clause under consideration (sect. 8, art. 1):¹² In the course of his observations, he produced a variety of papers to shew the folly of relying on requisitions (the mode intended by the amendment) and in particular an extract from the Circular Letter of his Excellency General Washington,¹³ by which he proved, that the distresses and procrastination of the war were attributable to that mode of supplying the common wants of the general government. He was about two hours on his legs; and having gone through and fairly answered the objections that had been made by the opposite party, concluded by an apology for the length of time he had taken up, and an exhortation to the Members to be calm and conciliatory in their proceedings. [*Daily Advertiser*, 8 July 1788]

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JOHN JAY rose, and said that he would confine himself to a few remarks, as the question had been pretty fully debated. He begun with a description of the general characteristics of a government proper for the United States. It had, he said, been justly laid down, that a government, which was to accomplish national purposes, should command the national resources. Here a question had been raised—Would it be proper that the state governments should limit the powers of the general government, relative to its supplies? Would it be right or politic that the sovereign power of a nation should depend, for support, on the mere will of the several members of that nation; that the interest of a part should take place of that of the whole; or that the partial views of one of the members should interfere with and defeat the views of all? He said that, after the most mature reflection, he could see no possible impropriety in the general government having access to all the resources of the country. With respect to direct taxes, it appeared to

him that the proposed amendment would involve great difficulties. Suppose a state should refuse to comply—would not the same motives, the same reasons, which produced the non-compliance, induce such state to resist the imposing and collecting of the tax? Would not a number of states in similar circumstances be apt to unite to give their resistance weight?—They could not all be forced.—These ideas of the impracticability and the danger of the measure, he said, had been already fully illustrated, and they had made a deep impression on his mind.—He apprehended that ambitious men might be found, in such emergencies, ready to take advantage of turbulent times, and put themselves at the head of such an association. After dwelling some time on this point, he proceeded to take notice of the objection relative to the want of that particular information in members of Congress, which, it had been said, would alone render them capable of imposing taxes, with prudence and justice. The objection had some weight; but it ought to be considered, that direct taxes were of two kinds; general and specific—With respect to the latter, the objection could not apply. The national government would, without doubt, usually embrace those objects, which were uniform throughout the states: such as all specific articles of luxury. No particular, minute knowledge could be necessary for this. For example; What difficulty or partiality would there be in the operation of a tax of twenty shillings on all coaches? The objection then could only apply to the laying of general taxes upon all property. But the difficulty on this score, he said, might be easily remedied. The legislatures of the several states would furnish their delegates with their systems of revenue, and give them the most particular information, with regard to the modes of taxation most agreeable to the people. From the comparison of these, Congress would be able to form a general system, as perfect as the nature of things would admit. He appealed to the good sense and candour of the gentlemen, if this would not, in all probability, take place. After some considerations on the subject of concurrent jurisdiction, he said, he was convinced, that it was sufficiently secured and established in the constitution. But as gentlemen were of a different opinion on this point, it would be very easy, he said, to insert in the adoption of the system an explanation of this clause.—Mr. Jay concluded, by suggesting a difficulty on the subject of excise, which had not been attended to—He asked by what rule we should know an article of American from one of foreign manufacture: How could American nails, American porter, and hundreds of other articles be distinguished from those of foreign production? He thought the proposed measure would create embarrassments; and the various abuses, that would follow, might be easily conceived. [Childs, *Debates*, 125–26]

—◆—

JAY. So much said & so well said

Shall add a few Hints

The Business is to consider the Mode which will best secure their General Happiness & particular Happiness—

These Govts. should be so constructed as not to in[ter]fere with each other—

National Objects require National Resources—

Would it be proper the National Govt should depend on the particular States for National Resources—

I see no Objection to the Powers except the abuse that may be made of it—I see no great Danger of that—The Power is well divided—The Representatives will have State attachmts & State Interest—

It is said direct Taxes should depend on requisition

Suppose a State should neglect or refuse—Suppose several of them should combine to refuse—Suppose ambitious Men should at such Circumstance to their own Emolument—

What would be the Effect—

There is a difficulty of apportioning direct Taxes—

direct Taxes may be Specific—Ex gr. [i.e., e.g.] 20/ on a Coach—20/ on a Slave—a Tax on plate—These require no great Information—

The difficulty is a direct Tax on all property—The States may in that Case have constantly a plan and instruct their Members—The State must have a plan if they raise themselves—Let the State point out the Manner—It will be said Congress adopt the Mode—

Answer Tis the Money Congress wants—If the State pays the money Congress will probably agree to the Manner—

It has been said Congress may leave no resources for their Support—I am of Opinion that they have concurrent Jurisdiction

But there are Doubts—I[t] may be cured by an explanatory Amendmt.

As to Excise—It intended to exempt your own productions from *Excises*

How distinguish your own manufactures from foreign—

Will not all Rum be considered as American—Can you distinguish London Porter from American or a London Nail from an American—

Will not this open a Door to frauds that cannot be prevented—
[McKesson's Notes, NH]

—◆—

JAY. After him [James Duane], Mr. JAY rose, who applauded Mr. Duane's speech in very high terms; and observed, that as every thing

had been urged, which was pertinent to the occasion, he should only give his opinion in favor of the paragraph without any amendment; and he explained the idea of concurrent jurisdiction, by which the state governments are to be supported, in a very clear and able manner. [*Daily Advertiser*, 8 July 1788]

* * * * *

MELANCTON SMITH after some introductory, cursory remarks, took notice of an honorable gentleman's [James Duane's] wishes, respecting a navy. He thought it would be wild and ridiculous, to attempt a project of that kind, for a considerable length of time; even if the treasury were full of money. He thought it was our duty, to calculate for the present period, and not attempt to provide for the contingencies of two or three centuries to come. In time, events might take place, which no human wisdom could foresee, and which might totally defeat and render useless these provisions. He insisted, that the present state of the country alone ought to be considered. In three or four hundred years, its population might amount to a hundred millions: At this period, two or three great empires might be established, totally different from our own.

Mr. Smith then made some remarks upon the circular letter of the late commander in chief, which Mr. Duane had produced.¹⁴ He asked, Whence the American army came: How were they raised and maintained, if the complaints in this letter were well founded: How had the country been defended and our cause supported, thro' so long a war, if requisitions had been so totally fruitless. He observed that one of the gentlemen [John Jay] had contemplated associations among the states, for the purpose of resisting Congress. This was an imaginary evil. The opposers of the constitution, he said, had been frequently charged with being governed by chimerical apprehensions, and of being too much in extremes. He asked if these suggestions were not perfectly in the same style. We had had no evidence of a disposition to combine for such purposes: We had no ground to fear they ever would. But if they were, at any time, inclined to form a league against the union, in order to resist an oppressive tax; would they not do it, when the tax was imposed without a requisition? Would not the same danger exist, tho' requisitions were unknown? He thought no power ought to be given, which could not be exercised. The gentleman [John Jay] had himself spoken of the difficulties attending general, direct taxes; and had presumed that the general government would take the state systems, and form from them the best general plan they could. But this would but partially remedy the evil. How much better would it be, to give the systems of the different states their full force, by leaving to them the

execution of the tax, and the power of levying it on the people. [Childs, *Debates*, 126–27]

—◆—
SMITH. I troubled the Committee very little to try my Character—

I meant to Answer the Gent from N York [James Duane] who used it as an Argumt. that some Gent opposed the Impost and yet opposed this Constitution—

The Gent. said he would State Matters fairly—I suppose he did in his own oppinion—

He mistated my Ideas as to the British Govt.—

That the Purse and Sword being wholly in the Hands of the Genl Govt. they might destroy or take away the Liberties of the State Govts.

If I said I was certain

I do retract it—I am not certain and not the means of Prescience.

I reasoned and he heard My Argumt. I did not shew any means of prescience—

I did not State the State Debts and public Debts with certainty and said so at the Time—I do not now believe was much wrong—

I did not say it would [be] improper for this Country to have a Navy—

I said we should never want such a Navy as Great Britain—

It is said the Govt. is not made for the present Time—but for future Time—It is wiser to make a Govt. for future Time or the present Time—

We ought to look forward a reasonable Time—But yet not be inattentive to the present Time—

As to his remarks on Requisition—What was done was principally done by Requisition—

I did not Argue for Requisition alone—But contended that when they argued agt. Requisitions altogether they carried their argumts. too far—

I do not recollect that I said or Stated that the States Genl Govt. would not [have] Efficacy enough to Collect a direct Tax—That the State Govts. would better lay and Collect Such Taxes—I had not an Idea of States combining agt. it—

I did not rise to explain my own Inconsistency—I considered the Genl Govt as having a Controlling Power—Tho' I used the word *Concurrent* perhaps not being a Lawyer—I used it improperly—

As to *Excise* I stated that the Excise should be left to the different States because it would operate unequally with the Genl Govt. and because [McKesson's Notes, NHi]

—◆—

SMITH. in reply to Mayor—
explain—

Govt. made present not future gen[eration]s [Robert R. Livingston, Notes, NHi]

* * * * *

SAMUEL JONES. The Gent from New York [John Jay] contends that the Genl Govt and State Govts. where not restrained will have a Concurrent Jurisdiction—I did not propose any such Amendmt. as the Gent proposed [McKesson's Notes, NHi]

JONES. When Mr. Jay sat down, Mr. JONES took an opportunity of rising, and with his usual ingenuity stated some objections to the idea of a concurrent jurisdiction; observing at the same time, that if such a thing did exist, he should consider it as one of the greatest defects of the proposed Constitution. [*Daily Advertiser*, 8 July 1788]

* * * * *

ROBERT R. LIVINGSTON. When this subject came into discussion, on Friday, Mr. Chairman, I did myself the honor to express my sentiments to the committee. I considered the amendment, as it would affect the general government, and was favored with the support of my honorable colleague [Alexander Hamilton], who went more largely and ably into the argument, and added weight to the ideas I had suggested. I shall now confine myself to a few cursory and general observations on the reasonings of our opponents. I do not think it my duty to attempt to reconcile the gentlemen with each other. They advance opposite principles, and they argue differently. As they do not appear to have any fixed maxims, in their politics, it is not to be wondered at, that they talk at random and run into inconsistencies. The gentleman from Dutchess [Melancton Smith] went into a defence of the state governments: He painted their good qualities in very warm colours; described their stability, their wisdom, their justice, their affection for the people. This was undoubtedly proper; for it was necessary to his argument. On the contrary, another gentleman [John Williams] took up the matter in a different point of view: He said the government of New-York, which had been acknowledged one of the best, was quite imperfect: But this was all right, for it answered his purpose. A gentleman from New-York [Alexander Hamilton] had remarked a great resemblance between the government of this state, and the new constitution. To condemn the former therefore, was giving a dead blow at the proposed system. But, sir, tho' we may pardon the gentlemen for differing from each other, yet it is difficult to excuse their differing from themselves. As these inconsistencies are too delicate to dwell on, I shall mention but a few.

Their amendment declares that Congress shall lay direct taxes, and the whole drift of their argument is against it. In their reasoning direct taxes are odious and useless things: In their amendment they are necessary and proper. Thus their arguments and their motion are at variance. But this is not the only contradiction. The gentlemen say that Congress will be avaricious, and will want every farthing of the people's property. One from Washington [John Williams] tells you that taxation will shut out the light of Heaven, and will pick your pockets. With these melancholy ideas, no wonder he mourns for the fair damsel of American liberty, harrassed with oppressive laws, shut up in a dismal dungeon, robbed of the light of Heaven, and, by a beautiful anticlimax, robbed of the money in her pocket. Yet, says the gentleman, tho' Congress will do all this, they cannot do it. You are told that the collection of the tax is impracticable. Is then this great mischief to arise from an impracticable thing? It is the reasoning among all reasoners, that from nothing nothing comes; and yet this nothing is to destroy the state governments, and swallow up the state revenues: The tax, which cannot realize a farthing, is to rob the citizens of all their property. This is fine reasoning. To what shall I compare it? Shall I liken it to children in the marketplace, or shall I liken it to children making bubbles with a pipe? Shall I not rather compare it to two boys upon a balanced board—One goes up, the other down; and so they go up and down, down and up, till the sport is over, and the board is left exactly on the balance, in which they found it. But, let us see if we cannot, from all this rubbish, pick out something which may look like reasoning. I confess I am embarrassed by their mode of arguing. They tell us that the state governments will be destroyed, because they will have no powers left them. This is new—Is the power over property nothing? Is the power of life and death no power? Let me ask, what powers this constitution would take from the states? Have the state governments the power of war and peace, of raising troops, and making treaties? The power of regulating commerce we possess: But the gentlemen admit that we improperly possess it. What then is taken away? Have not the states the right of raising money, and regulating the militia? and yet these objects could never have employed your legislatures, four or five months in the year. What then have they been about? making laws to regulate the height of fences, and the repairing of roads? If this be true, take the power out of their hands—They have been unworthy servants—They have not deserved your confidence. Admit that the power of raising money should be taken from them; does it follow, that the people will lose all confidence in their representatives? There are but two objects, for which money must be raised—the support of the

general governments, and that of the states, and they have an equal right to levy and collect their taxes. But if, as the amendment proposes, they should be obliged to grant all that Congress should call for; if they are to be compelled to comply with the requisitions without limitation; they would be, on the gentlemen's principles, in a pitiable situation indeed. The mode alone would be in their discretion. Is this the mighty matter about which we differ? Contend about modes! I am sorry to say, sir, that a rigid adherence to modes in this state, has been the cause of great injustice to individuals, and has hurt the confidence of the people: It has led this state, on one occasion, to raise the expectations of public creditors, and to sink them again, by an unwarrantable breach of faith.¹⁵ Sir, if the power of regulating the militia, of raising money, of making and executing all the civil and criminal laws—laws which affect the life, liberty and property of individuals, can ensure or deserve the confidence and respect of the people, I think the gentleman's argument falls to the ground.

Much has been said, Sir, about the sword and the purse. These words convey very confused ideas, on the gentleman's application of them. The honorable member from New-York [Alexander Hamilton] has fully explained their meaning, as applied to the British government. His reasoning was so conclusive, that it seems to have carried conviction to every mind:—The gentleman from Dutchess [Melancton Smith], to elude it, has made use of a singular shift. Says he, the general government and state governments form one government. Let us see how this matter stands. The state of Pennsylvania and New-York form two distinct governments; But New-York, Pennsylvania and the general government together form one government; The United States and New-York make another government; The United States and Connecticut another, and so on.—To the gentleman's optics, these things may be clear; but to me, they are utter darkness. We have thirteen distinct governments, and yet they are not thirteen governments, but one government. It requires the ingenuity of St. Athanasius to understand this political mystery.¹⁶ Were the gentleman a minister of the gospel, I might have faith; but, I confess, my reason is much too weak for it. Sir, we are attempting to build one government out of thirteen; preserving however the states, as parts of the system, for local purposes, and to give it support and beauty. The truth is, the states, and the United States have distinct objects. They are both supreme. As to national objects, the latter is supreme; as to internal and domestic objects, the former. I can easily conceive of two joint tenures, and of joint jurisdictions without controul. If I wanted an example, I might instance the mine, Mr. Chairman in which you and others have a joint property and concurrent

jurisdiction.¹⁷ But why should the states hold the purse? How are they to use it? They have not to pay the civil list, to maintain the army or navy—what will they do with it? What is the sword, which the gentlemen talk of? How is Congress to defend us without a sword? You will also keep that—How shall it be handled? Shall we all take hold of it? I never knew, till now, the design of a curious image I have seen at the head of one of our newspapers. I am now convinced, that the idea was prophetic in the printer. It was a figure of thirteen hands, in an awkward position, grasping a perpendicular sword.¹⁸—As the arms, which supported it, were on every side, I could see no way of moving it, but by drawing it through, with the hazard of dangerously cutting the fingers.—For my own part, I should be for crying hands off.—But this sword of the gentleman's is a visionary sword—a mere empty pageant; and yet they would never trust it out of the state scabbard, lest it should wound somebody. They wish for checks against what can do no harm—They contend for a phantom. Gentlemen should consider their arguments, before they come here. Sir, our reasoning on this ground is conclusive. If it be necessary, to trust our defence to the union, it is necessary that we should trust it with the sword to defend us, and the purse to give the sword effect. I have heard not a shadow of an argument, to shake the truth of this. But gentlemen will talk—It is expected.—It is necessary that they should support, in this house, the opinions they have propagated out of doors; but which perhaps they had themselves too hastily formed.

Sir, one word with respect to excise. When I addressed the committee on Friday last, I observed, that the amendment would operate with great inconvenience; that at a future period, this would be a manufacturing country; and then there would be many proper objects of excise: But the gentleman [Melancton Smith], in answer to this, says we ought not to look forward to a future period. What! must this then be the government of a day? It is the third time,¹⁹ we have been making governments, and God grant it may be the last. [Childs, *Debates*, 127–30]

R. R. LIVINGSTON. My Colleague [Alexander Hamilton] who followed me on fryday carried Conviction to the Minds of most Gent present—

The Gent opposed to the Clause have taken up different principles—

The Gent from Dutchess [Melancton Smith]—Stated the Happiness of the State Govts.

The Gent from Washington [John Williams] Stated the Govt. of New York as the most perfect Govt. yet was a very Imperfect

The Motion and the Argumts are at War with each other—

The Motion says Congress shall lay direct Taxes—The Argumts. say Congress shall not lay direct Taxes—

The Gent. says

The Gent [Melancton Smith] says Congress cannot collect it—it is impracticable

If so from nothing nothin Comes—

It is like Children on a Ballance board—when one End up the other down—

This govt. it is said will destroy the state Govts.

What Power will this Govt. take from the State which it before enjoyed—

1: The Power of Regulating the militia—

2d The Power of Raising Money—This remains for State purposes where it was—for General Purposes only the Mode of rais[in]g it was left to the State—

3d The Power of Interfering in private Contracts—Happy for the State if this Power had long been taken away

That the Powers will reduce the State Govts.

This they demonstrate cannot be done—If the money cannot be raised but by the Intervention of the States Congress must keep the State Governmts. alive—

As to the Purse and Sword—They must be kept in different Hands—they are so—

The Gent say that the State Govts. form a part of this Govt. and should therefore have a Controul—This will form thirteen Govts. We are then seeking Union in the seeds of Disunion—

The fact is

To General Purposes the Genl Govt. is to be supreme

To State purposes the State Govt. is Supreme

To other purposes there is a Concurrent Jurisdiction—and this Jurisdiction Concurrent—

To what use retain this Power—what will be the use—what lock it up—

How is the Sword to be used—what must the States use—

Thirteen States use it—I had rather let Congress use it—

The Gent. from Queens [Samuel Jones] says they wish to leave this Power—to leave a Check—

If it is necessary to trust our Defence to the Union We must leave that Sword and that purse and that Power to the Union which is necessary

It was urged that Congress should have *funds* to pledge

A Gent from Queens says a Law may pass that they will repay—

I appeal to the Instance of our own State—where we pledged for the Redemption of the new Money we paid²⁰—

It is the only Instance—All the other promises remain to be paid.

As to *Excises*—the Gent Says there should not be an Excise—because Manufactures are new—That they are more populous in proportion to their Wealth and be taxed for their Numbers—

It is the only Tax except direct Taxes which never can be carried far in this Country— [McKesson's Notes, NHi]

—◆—
R. R. LIVINGSTON. Discussed Friday

Gl Govt.—State—indiv[id]ual Citizens—

Hamiltons remarks—

Absence

Desultory remarks—

Disagreemt. *each other*—

Smith perfection state constitutions

W[illia]ms *Imperfection*—

Reasons—

[- - -] [- - -]—

Mo. *admits* necessity

Args. *deny*

Impost Excise sufficient

Excise deducted—

Danger State govts.

Congress—avaricious—ambitious &c.

Light heaven—

Dungeon—

Impracticability collection

Children on board—

Argumt. examined—

State Govs. Subverted.

1. No powers—

denied

Internal police—*property*—*Life*.

What powers under Confederation?

1st—War—peace—treaties—Army—Navy—civil Officers—Ambassadors

Commerce—relinquish—

Only powers taken away

1. Militia 2 Raising money for armies

3. interfering private contracts—

Militia.

3 laws ten years—

Money.

limited by war—no necessity for raising—destroy confidence
&c.—Selves [- -]—

2 Objs. *State* [*use?*]—Supply *genl treasury*—

1. retained—

2 Measure not in their Discretion—

Only means—

Ques: has this added to confidence

Discussed—

Private Contracts—

[- -] [- -]

II. *Reduce State.*

Exercise take away resources

Concurrent admitted—

Supreme

Applies to powers granted

concurrent—not *exclusive*—

State county tax *laid* equally supreme—

Impracticable collect

Intervention *State* necessary—

Operate then—to *secure* *State* govts.

Purse Sword

Principle explained—

State part sovereignty.

Denied.

State absolute matters in their jurisdiction

Concurrent powers others—

Subject *others*—at least citizens

Sovereignty.

one will—combined powers—Union

communication—System—

States no controul over *each other*—

13 Sovereignties—Congress & N Hampshire &c.

Either all each controuled or not.

Controul power in Congress—

Not controuled—No union

Why keep purse?

[- -] No power to use it—

Why sword?

[- -] [- -]—[- -] [- -]—

More difficulties more reflect

Defence Congress

Ques: wth. or without Sword?

13 hands—

Emblem head newspaper—

Not prevent exercise but [- - -] [- - -] govt.—

Ques:

how each State judge every act?

Separate governments—

Jones [said] requisition complied wth. because compulsory power—

Ques: what State refused?

Money borrowed on credit without *ple[d]ge*

NB. difference—one defeated one house

Manufactures [Robert R. Livingston, Notes, NHi]



R. R. LIVINGSTON. He [Samuel Jones] was followed by the CHANCELLOR, who, in a fine vein of humor, exposed the arguments of the opposition; compared ludicrously the reasoning of one to that of another, and placed in the most striking and picturesque point of view the absurdities and contradictions of all. He gave his fine imagination full scope, in sallies that would do honor to a Chesterfield or a Courtenay.²¹ The bursts of applause, which he received from every side, seemed to add energy to his genius, and his whole speech was a stream of delicate satire and truly Attic²² eloquence. Even those who felt most sensibly the lashes of his wit, were captivated with his fancy, and were forced to join the general laugh. Nor was his address a mere exercise of sportive imagination; his wit served only to give keenness to the edge of his arguments, and to make their impression irresistible.²³

When the Chancellor sat down, a motion was made for the Committee to rise, and the Convention adjourned. [*Daily Advertiser*, 8 July 1788]

1. Under Article II of the New York constitution (1777), “supreme legislative power” was in the state legislature (Thorpe, V, 2628). Therefore, that body determined what the districts, towns, cities, and counties could do and the conditions under which they could do it. For example, in April 1784, the state legislature authorized the city and county of New York to levy a tax on real and personal property, indicating how the tax revenues were to be used and for what period of time. The city and county returned to the legislature annually, although they were not always successful in getting exactly what they had requested. See Sidney I. Pomerantz, *New York An American City 1783–1803: A Study in Urban Life* (New York, 1938), 358–62.

2. In May 1786 the New York legislature adopted the Impost of 1783 under conditions that were unacceptable to Congress. (See RCS:N.Y., Vol. 1, xxxviii–xl. For the Impost, see CDR, 146–48.) Smith—a delegate to Congress—defended New York in a speech to Congress. He was also probably the author/compiler of a 68-page pamphlet about the impost and New York’s position on it entitled *The Resolutions of Congress, of the 18th of April, 1783* . . . (New York, 1787) (Evans 20783).

3. For these “public papers,” see Convention Debates, 28 June (above).
4. For the text of George Washington’s June 1783 letter to the executives of the states, its widespread circulation, and some commentaries upon it during the debates over the ratification of the Constitution, see CC:4.
5. John Williams proposed this amendment on 26 June. See Convention Debates, 26 June, at note 9 (above).
6. The answer and two resolutions referred to by Duane were among the documents that Alexander Hamilton requested be read on 28 June. See Convention Debates, 28 June, at notes 7, 8, and 13, and those notes.
7. Washington’s circular letter reads: “that in less time, and with much less expence than has been incurred, the war might have been brought to the same happy conclusion, if the resources of the continent could have been properly called forth” (CC:4, p. 69).
8. Duane served in Congress from 1774 to 1784. Congress levied the first formal requisition in November 1777.
9. For a discussion of New York’s effort to pay its state debt, as well as the federal debt, see RCS:N.Y., Vol. 1, pp. xli–xliv.
10. See Washington’s circular letter (CC:4, pp. 69–70), for the paragraph beginning “If, in treating of political points . . .”
11. Defraud meant “To deprive or cheat (a thing) of what is due to it; to withhold fraudulently” (OED).
12. In the *New York Journal*, 10 July (Mfm:N.Y.), this sentence reads: “Mr. Duane replied, in a speech of two hours, to the objections that had been made against the clause under consideration.” In the same issue of the *Journal*, an anonymous letter writer said that Duane’s “harangue” lasted “two hours and an half” (*New York Journal*, 10 July, RCS:N.Y., 2081).
13. See note 10 (above).
14. See notes 4 and 10 (above).
15. In April 1786 the New York legislature enacted a measure that emitted £200,000 of paper money. Three-quarters of the currency formed a loan office as a form of debtor relief to farmers who put up real estate for collateral. The remainder of the currency was used to fund the interest and principal of the entire state debt and about 39% of the Continental debt owned by New Yorkers. The rest of the Continental debt owned by New Yorkers (\$3,600,000) was owned by only a couple hundred wealthy opponents of Governor George Clinton. As the loans were repaid and other taxes were paid in the paper currency, it was used again and again to fund both the state debt and the designated federal debt. Both the loan and the funding parts of the act worked very well. Thus, those federal creditors excluded felt the “unwarrantable breach of faith.” See John P. Kaminski, *Paper Politics: The Northern State Loan-Offices During the Confederation, 1783–1790* (New York, 1989), 147–48.
16. St. Athanasius (c. 293–373), Bishop of Alexandria, wrote about and was a principal defender of the Holy Trinity—the union of the Father, Son, and Holy Spirit, in one Godhead.
17. A reference to a potential silver mine in Coxackie, Albany County, discovered by Henry Oothoudt. In 1784 the New York legislature exempted Oothoudt and his heirs from paying taxes on “the Issues or Profits of the Mine” until 1 May 1795. See *Laws of the State of New-York . . .* [12 February–12 May 1784] (New York, 1784), 68–69 (Evans 18646).
18. The reference is to the masthead of John Holt’s *New-York Journal; or, the General Advertiser*. Delegate Gilbert Livingston identified Holt (1721–1784) as the printer to whom Robert R. Livingston referred (Convention Debates, 2 July, at note 1, below). From 23 June to 8 December 1774, Holt’s masthead consisted of a cut-up snake imploring Americans to “Unite or Die,” with each piece of the snake representing a part of America.

On 15 December 1774 Holt revised the cartoon which Isaiah Thomas, an historian of early American newspapers and one of Holt's printing contemporaries, described thusly: "the snake was united, and coiled with the tail in its mouth, forming a double ring; within the coil was a pillar [seemingly not a sword] standing on Magna Charta, and surmounted with the cap of liberty; the pillar on each side was supported by six arms and hands, figurative of the colonies. On the body of the snake, beginning at the head, were the following lines,

United now, alive and free,
Firm on this basis Liberty shall stand,
And, thus supported, ever bless our land
Till Time becomes Eternity."

(*The History of Printing in America* . . . [1810; 2nd ed., 1874; Marcus A. McCorison, ed., New York, 1970], 504. See also Wm. David Sloan and Julie Hedgepeth Williams, *The Early American Press, 1690–1783* [Westport, Conn., 1994], 161.).

19. The two previous instances of constitution-making were probably the writing of the state constitution of 1777 and the Articles of Confederation.

20. See note 15 (above).

21. Philip Dormer Stanhope (1694–1773), the fourth Earl of Chesterfield, was a member of the House of Lords. John Courtenay (1741–1816) was a member of the House of Commons in the 1780s. In Parliament, both men were eloquent and witty speakers, who did not hesitate to attack powerful men.

22. "Attic" means elegant, delicate, like the Athenians.

23. In the *New York Journal*, 10 July (Mfm:N.Y.), this paragraph was replaced by this sentence: "He [Jones] was followed by the chancellor, who exposed the arguments of the opposition, and placed in the most striking point of view their absurdities." Admiring Livingston's reply, an observer of the debates noted that "every man with the common feelings of humanity, must have smiled the smile of contempt . . . against the scurrilous abusers . . ." (from Henry Izard, 8 July, RCS:N.Y., 1297–98).

The New York Convention

Wednesday

2 July 1788

Convention Debates, 2 July 1788

GILBERT LIVINGSTON. Sir, I perfectly agree with every gentleman that has spoken on this clause [Article I, section 8, clause 1], that it is most important, and I likewise agree with those of the honorable members who think that if this section is not amended there will not the shadow of liberty be left to the states—as states. The honorable member from New-York, (Mr. Hamilton) on Saturday [28 June] went largely into the justification of the section as it stands—asserted that the government was truly republican—good and safe—that it would never be the interest of the general government to dissolve the states—that there was a concurrent jurisdiction, independent as to every thing but imports,

that the states had a supreme uncontroled and uncontrollable power in common with the general government to every branch of revenue—except as to impost—post-office—and the restraint with respect to exports; that with respect to any productive source of revenue left—which ever the general government or particular state, applied first, would obtain it. As to the safety in the general government, considered as a compleat republican government, several honorable members as well as my worthy colleague, have fully considered, and in my humble opinion clearly shewn—that it cannot be fully depended on as safe, on the score of representation.—Therefore, I conceive the state governments are necessary, as the barrier between the people’s liberties—and any invasion which may be attempted on them by the general government. The honorable member from New-York has given us a new kind of power—or rather endeavored to shew that power can be equally exercised in a way I believe never before thought of:—That is, two bodies which have, or at least may have, separate and indeed contrary interests, to have at the same time uncontrollable power to derive support from, and have compleat direction of, the same branch of revenue.

It seems, Sir, to be agreed, that state governments are necessary. The state governments will undoubtedly endeavor to support themselves. It also seems to be agreed, that the general government will want all the money they can raise—it is in my mind as true—(if they possibly can) that they will raise all they want. Now, Sir, what will be the consequence, the probable consequence, in this taxing, collecting squabble.—I think, Sir, we may conclude with great certainty, that the people will between them be pretty well taxed. An honorable member from New-York (Chancellor [Robert R. Livingston]) on Friday last [27 June] endeavoured to prove, and yesterday again tauntingly mentioned it, that because taxes are annually collected in our counties—for state and county purposes, by the same collector—authorised by the same legislature—appointed by the same assessors, and to support the same government—that therefore the same sources of revenue may safely be applied to without any danger of clashing interference for different purposes, and by different powers—nay by powers, between whom it seems to be agreed, there will be a struggle for supremacy—and one of the gentlemen (Mr. Hamilton) declares his apprehensions to be, that in the issue the state governments will get the victory, and totally supplant the general government.—Others, I believe with greater probability of truth, think the states will cut but a scurvy figure in the unequal contest. This Sir, however seems certain, that a contention there must be between them. Is this wise, Mr. Chairman—now when we are deliberating on a form of government which we suppose will affect our posterity to

many ages—to adopt a system in which we see, clearly see, the seeds of feud, contest, jealousy, and confusion. Farther, Sir, it is agreed that the support of the general government is of the utmost consequence on the great scale; it is contended by some as before mentioned, that, if both powers—these supreme co-existing, co-equal powers, should tax the same objects, the state taxes would be best paid. What, Sir, would be the consequence? Why, the others would be badly paid, or not be paid at all.—What then is to become of your government? In this case it must be annihilated indeed—Will this do? This bantling, Sir, ought to be better provided for—for my part I like it too well—if a little amended, to agree to a provision which is manifestly not sufficient for its support, for if the gentlemen’s arguments have weight in them—(and that I would not wish to contest) this government must fail, the states will be too many for it. My opinion is, Sir, that a line be drawn.—Certain and sufficient resources ought to be left solely to the states, as states, which the amendment does. And as the general government has some particular ones altogether at its command, so also ought there to be a right of requisition for what the specific funds may be deficient in. Sir, this requisition, will have in my opinion, directly a contrary effect to what some gentlemen suppose—It will serve to impress both the general government as well as the particular state governments with this important idea—that they conjointly are the guardians of the rights of the whole American family. Different parts of the administration of the concerns of which, being entrusted to them respectively. In the one case, Congress as the head will take care of the general concerns of the whole: In the other, the particular legislatures, as the stewards of the people, will attend to the more minute affairs. Thus, Sir, I wish to see the whole transacted in amity and peace; and no other contest, than what may arise in the strife, which may best answer the general end proposed, to wit, peace, happiness and safety.

Further, Sir. It has been frequently remarked, from one side of the house, that most of the amendments proposed, go on the supposition that corruption may possibly creep into the general government; and seem to discard the idea, as totally improbable. Of what kind of beings, Sir, is the general government to be composed?—If of men, I think it probable at least, they may be corrupt: Indeed, if it were not for the depravity of human nature, we should stand in no need of human government at all.

Sir, I should not have added, but I am led to do it, thus publicly to hold up my testimony to the world against the illiberal treatment we met with yesterday—and that from a quarter I little expected it. Had I not been present, I should hardly have believed it possible, that the honorable member from New-York, who harrangued the committee

yesterday with such a torrent of illiberality, was the same man [Robert R. Livingston], who at the opening of the debates of this convention, could wish that we should investigate with candor.

Will men, Sir, by being called children, be convinced there is no reason in their arguments?—or that there is strength in those of their opponents. I confess, Sir, in the case before us, they will see strength in the gentleman's argument, (if what was said may be called an argument) it was strong; (and to use one of the member's own similies) it consisted wholly of *brass*, without any mixture of clay—and by a luxuriance of fancy, which that member is famous for—and I suppose for the sake of variety, he has taken it from the feet and toes, where on another occasion he had emphatically placed it, and now has displayed it wholly in front.

The honorable member, Sir, wrought himself up into such a strain of ridicule, that after exhausting his admirable talents, in this sublime and gentlemanlike science, on his opponents—he finds another subject to display them on. In the emblem of liberty, the pillar and cap, which that friend and asserter of the rights of his fellow citizens, John Holt, late printer of the New-York Journal,¹ in perilous times dared to use, as expressive of his own whiggish sentiments, who must be hauled from his grave for the purpose—but whose memory, maugre all the invective which disdain may wish to throw upon it, will be dear to this country, as long as the friends of liberty will dare to shew their heads in it. Indeed, Sir, this is not the first time, that this emblem of liberty has been endeavored to be held up, in a ridiculous point of light. And let me tell you, Mr. Chairman, it has the same effect on me now, it had the first time. It roused every spark of whiggish resentment about my heart. In or about the year 1775, this cap of liberty was the subject of the tory wit of Vardel,² or some of his associates about king's college, (as was supposed.) The member who now exactly follows their track (if they were the authors of it) at that time, found it not to his purpose, openly to avow the sentiment.

But, Sir, from the light in which he appears to hold the wavering conduct of up, up, up—and down, down, down—and round, round, round—we are led to suppose, that his real sentiments, are not subject to vary, but have been uniform throughout. I will leave the gentleman himself to reflect, what are the consequences which will naturally follow from these premises. If he does not like them, I cannot help it; he must be more careful in future, in laying down propositions, from which such consequences will follow.

I repeat, Sir, that the member in the first place endeavors to ridicule the gentlemen opposed to him in sentiment. That was not enough—he must next attack the memory of the distinguishing emblem of that

good old whig, Mr. Holt. But, Sir, as he laughed at a worthy member for making what he termed an anticlimax, he appears to be determined to make his own complete—and for want of a third part more to his purpose, he finishes, by an indirect, though fashionable attempt to ridicule the sacred Gospel itself³—and the faith necessary for a sinner to partake of the benefits contained in it.

Before I set down, Sir, I must lament the occasion of the remarks I have last made.—When gentlemen will, for the sake of displaying their own parts, or perhaps for worse purposes, depart from the line of propriety—they then are fair game. I cannot suppose, however, that it is disagreeable to the member himself, as he appears to delight to dabble in dirty water. [Childs, *Debates*, 130–33]⁴

◆

G. LIVINGSTON. I agree this is an important Clause—but if not amended there will be nothing but the Shaddow of Liberty left—

A Member from N York [Alexander Hamilton] on Saturday [28 June] went fully into this Clause—The Gent set up a new kind of Power—

That Bodies having Seperate & perhaps opposite Interests may at the same [time] have Concurrent Powers and Jurisdictions and not interfere—

A Member from N York [Robert R. Livingston] on friday [27 June] argued and yesterday tauntingly mentioned That it was similar to our State & County Taxes—

One Gent supposes the State Govts. will prevail—Several other Gent suppose and perhaps with Truth that the Genl. Govt. will leave the State Govts. to make a Scurvy figure—

Should we form a Govt. with the Seeds of disunion—

It is said If both Govts. lay Taxes the State Taxes will be best paid What will then become of the Genl Govt. it must fail—

Much is said that Congress cannot be corrupt—

What will they be—Angels or Men—

Some Revenue should be left to the States and a perfect Line drawn—Each their own powers and Resources—

If I had not heard it I could not have believed that the same Gent who poud out such Torrent of Illiberality who at the opening of the Business proposed calmness and Liberality—

In 1775 was the Subject of the Tory Wit of Vardil or some of his Associates—

What the Consequences—his advice yesterday—Well to weigh what they say before they come here—

After his redicule of his Ante Climax—he redicules the Gospel itself—

When a Man departs from the Line of Propriety he is fare Game—
[McKesson's Notes, NHi]

* * * * *

JOHN WILLIAMS. Mr. Chairman. Altho' I think the speech of an honorable gentleman from New-York [Robert R. Livingston] totally undeserving of notice, with regard to argument; yet as he has taken upon himself to mis-state some of my sentiments, and attribute improper motives to me, I shall make a very short reply.

He observed that I said the state government was imperfect, because it answered my purpose—With equal justice I might retort, that the honorable gentleman has been frequently talking of the defects of the articles of the confederation, because it answered his purpose. But, sir, I said no more of the state constitution, than I can say with propriety of every thing else—that nothing is perfect.—Even the honorable gentleman's wit and fancy cannot lay claim to perfection, or he would not have introduced the vulgar idea of children's tottering with boards. The gentleman observed, that I alledged, that the Congress would rob the people of the light of Heaven, and pick their pockets.—This egregious mis-statement I cannot account for. I have heard that a great philosopher endeavored to prove, that ridicule was the test of truth;⁵ but with the honorable gentleman, misrepresentation is the test of ridicule.

I think, sir, that no prudent people will trust power with their rulers, that cannot be exercised without injuring them—This I suppose to be the case with poll taxes. But the honorable gentleman hath not attempted to overthrow either of the arguments of the honorable gentlemen [Melancton Smith and John Lansing, Jr.] who have spoken in favor of the amendment, I had the honor to propose, or my own.⁶ He hath indeed attacked us with wit and fancy.—If however, we supposed him a formidable adversary, upon those considerations, and attempted to combat him with the same weapons,—would it not be as ridiculous, as it was for Don Quixote to fight with a wind mill upon the mad supposition that it was a giant. The gentleman had also observed that every member of the committee was convinced by the arguments of an honorable gentleman of New-York [Alexander Hamilton], of the propriety of this paragraph, except the honorable gentleman from Dutchess [Melancton Smith]. Now, Sir, how the gentleman came to discover this I cannot say: This I can say for myself, that I am not convinced. The gentleman must indeed possess some wonderful faculties, if he can penetrate into the operations of the mind; he must, Sir, possess the second sight in a surprising degree.—Sir, I should, however, be very uncandid if I attributed the gentleman's satirical remarks to a malevolent disposition:—I do not, Sir.—I impute them to his politeness, which is the art of pleasing. Now, Sir, every person must acknowledge

that the honorable gentleman gave a great deal of pleasure yesterday; if laughter is a sign of pleasure, consequently he was very polite. Sir, I shall not enter seriously into the subject, until I hear serious answers [to] what I have offered to the committee. Sir—to conclude—The hon. gentleman in my eye, from New-York [Robert R. Livingston], may substitute his fanciful notions in the room of arguments; he may, Sir, by his ridiculous, I mean ridiculing powers, excite laughter, and occasion smiles. But trust me, Sir, they will instead of having the desired effect, instead of frightening, be considered with contempt. [Childs, *Debates*, 133–34]⁷



WILLIAMS. Even the Gentlemens fancy is not perfect

With the Gent misrepresentation is the Test of Truth—

If we were able to attack him with his own weapons would it not be like Don Quixot attacking the windmill—

I do [McKesson's Notes, NHi]

* * * * *

MELANCTON SMITH. Mr. Chairman, the honorable gentleman [Robert R. Livingston], who spoke yesterday, animadverted, in a very ludicrous manner, upon my arguments; and endeavored to place them in a ridiculous point of view. Perhaps it was necessary that the convention should be diverted with something fanciful, and that they should be relieved from the tediousness of a dull debate, by a few flashes of merriment. I suppose it was for this purpose, that the gentleman was induced to make so handsome a display of his comic talents, to the no small entertainment of the ladies and gentlemen without the bar. It is well known, that in theatrical exhibitions, the farce succeeds the tragedy. Now, as another honorable gentleman (Mr. Duane) had, but the day before, called to our minds, in a most dismal picture, the tragic scenes of war, devastation and bloodshed; it was entirely proper that our feelings should be relieved from the shocking impression, by a light and musical play. I think the gentleman has acquitted himself admirably. However, this attack seems to have thrown him off his guard, and to have exposed him to his own weapons. The gentleman might well have turned his strictures upon his own contradictions; for at one time, he argues that a federal republic is impracticable; at another, he argues that the proposed government is a federal republic: At one time, he says the old confederation has no powers at all; at another, he says it has nearly as many as the one proposed. He seems to be an enemy to creeds; and yet, with respect to concurrent jurisdiction, he presents us with his creed, which we are bound to believe. Let us hear it. "I believe

that the general government is supreme, and that the state governments are supreme, and yet they are not two supremes, but one supreme; and this cannot be doubted." He says, there is a concurrent jurisdiction in your mine, Mr. Chairman, and yet you do not concur; for the gentleman himself claims the soil, and there seems to be a difference between you. But as the honorable gentleman considers his harrangue as containing some reasoning, I shall take notice of a few of his remarks. [See RCS:N.Y., 2057, n. 17.]

The gentleman has said, that the committee seemed to be convinced by the arguments of an honorable member from New-York [Alexander Hamilton]. I suppose it was only a fancy of the moment that struck him, of which he probably can give no better account than the rest of us. I can only say for myself, that the more I hear and reflect, the more convinced I am of the necessity of amendments. Whether the committee have received conviction, can easily be settled by a vote.

The gentleman from Washington [John Williams] had said that even the state of New-York was not a perfect form—In the course of my argument, I observed that the state legislatures were competent to good government, and that it was not proper to exchange governments, at so great a risk. Where is the mighty contradiction? I said that the state governments were proper depositaries of power, and were the proper guardians of the people. I did not say that any government was perfect, nor did I ascribe any extraordinary qualities to the states. The gentleman endeavors to fix another contradiction upon me. He charges me with saying, that direct taxes are dangerous, and yet impracticable. This is an egregious misrepresentation. My declaration was, that general direct taxes would be extremely difficult, in the apportionment and collection, and that this difficulty would push the general government into despotic measures. The gentleman also ridicules our idea of the states losing their powers. He says this constitution adds little or no power to the union; and consequently takes little or nothing from the states. If this be true, what are the advocates of the system contending about? It is the reasoning among all reasoners, that nothing to something adds nothing. If the new plan does not contain any new powers, why advocate it? If it does, whence are they taken? The honorable member cannot understand our argument about the sword and the purse, and asks, why should the states hold them? I say the state governments ought to hold the purse, to keep people's hands out of it. With respect to the sword, I say you must handle it, through your general government: But the states must have some agency, or the people will not be willing to put their hands to it. It is observed that we must talk a great deal; and that [it] is necessary to support here what we have said out of doors.

Sir, I conceive that we ought to talk of this subject every where.—Several gentlemen have observed, that it is necessary these powers should be vested in Congress, that they may have funds to pledge for the payment of debts. This argument has not the least weight in my mind. The government ought not to have it in their power, to borrow with too great facility. The funds, which we agree to lodge with Congress, will be sufficient for as much as they ought to borrow.

I submit to the candor of the committee, whether any evidence of the strength of a cause is afforded, when gentlemen, instead of reasoning fairly, assert roundly; and use all the powers of ridicule and rhetoric, to abuse their adversaries. Any argument may be placed in a ridiculous light, by taking only detached parts. I wish, Mr. Chairman, that ridicule may be avoided. It can only irritate the passions, and has no tendency to convince the judgment. [Childs, *Debates*, 134–35]⁸

◆

SMITH. When the mind has been long fixed it wants relaxation—The Gent [Robert R. Livingston] yesterday diverted not only the Committee but also

After a Tragedy it is proper to have a Farce—

A Gent in an elaborate Argumt. held up all

This Gent. by fancy endeavoured to fix contradiction

had he Stated

That a Gent from New York [Alexander Hamilton] insisted

The Gent. says a federable Govt. is pract

At one time the ~~federal Govt~~ Confederation has [– – –] Power

The Gent supposed most of the Committee except myself convinced—This may be tried

In the Course of Argumt. I said as much should be committed to the State Govts as could with Safety to the Genl Govt.

I suppose there no Inconsistency—That the State Govts will be necessary as the Amendmt. Stands—

The Dungeon he brot in View clouded

The Gent says adding this Clause will give no additional Strength or Power

The Gent. says why keep the Purse—I say for fear too many People put their Hands in it—

More wise to make a Govt. for the present Time—Than for time to come—a Century hence—

Any Gent ought at proper Times any where to reason on this Constitution

Arguments will always have more weight than Reditule—

It is said Congress should have all funds to enable her to borrow Money with facility—

The funds given to Congress are large enough—They can on those funds borrow as much or more than the Country can pay—

If their funds are too large [McKesson's Notes, NHi]

* * * * *

ROBERT R. LIVINGSTON said he was very unfortunate, in provoking so many able antagonists. They had given a turn to his arguments and expressions, which he did not expect. He was however happy, that he could say with Sir John Falstaff, that if he had no wit himself, he had been the occasion of wit in others;⁹ and therefore he supposed that the ladies, this day, had been as well entertained as yesterday. He went on to explain what the gentleman [Melancton Smith] had imputed to him as contradictions. He had charged him with saying, that a federal government could not exist, and yet that he had contended for one. This was false—He had maintained, that a simple league of states could not long exist—and had proved it, by examples. This was fair reasoning; and he had not said any thing to contradict it. He then went through a review of his arguments, to prove that he had been misrepresented, and that he had been consistent throughout. But, said the Chancellor, what most deeply wounds me is, that my worthy kinsman [Gilbert Livingston] across the table, regardless of our common ancestry, and the tender ties of blood, should join his dagger with the rest, and compel me to exclaim, in the dying words of Cæsar, “And thou too Brutus!”¹⁰ The gentleman alledges, first, that I have treated the holy gospel with disdain. This is a serious charge. I deny it. If I have used a phrase disagreeable to him, I certainly have expressed nothing disrespectful of the scriptures.¹¹ If I have used a few words, there are gentlemen who have quoted, not only verses, but chapters. He then tells you, I have insulted the good Mr. Holt.¹² I declare, I did not know that the newspaper, I referred to, was his. He tells you that my sentiments are illiberal; and that I insinuate, that the worthy printer did not act on sound principles of whiggism. If this were true, my insinuations would indeed be both illiberal and false. Sir, if gentlemen will come forward with absurd arguments, imagine erroneous premises, and draw false conclusions, shall they not be exposed? and if their contradictions render them ridiculous, is it my fault? Are not the absurdities of public speakers ridiculed in all countries? Why not expose false reasoning? Why not pluck from sophistry the delusive veil, by which she imposes on the people? If I am guilty of absurdities, let them be detected, and displayed. If the fool's cap fits me, clap it on. I will wear it, and all shall

laugh. Sir, the very day after I made my first speech to this committee, I was attacked with great severity, and with unusual weapons. A dreadful and terrible beast, with great iron claws and ghastly look, was made to grin horribly in my face.¹³ I appeal to this committee, Sir, whether gentlemen have not said plainly, that the powers of Congress would be dangerous, and yet impracticable. If they will speak such nonsense, they must be exposed. Their other arguments are equally ridiculous. They reason in confusion. They form a government, to consist of thirteen governments—One controuls thirteen, and thirteen controul one. With regard to the sword and the purse, I could have no conception of Congress keeping a sword, and the states using it—of Congress using a purse, and the states keeping it—of Congress having power, and the states exercising it. I could not reconcile these things to my reason. Sir, when any argument, on such a subject as this, strikes me, as being absurd and ridiculous, I cannot conceal my emotions: I think it my duty to expose it boldly; and I shall continue to do this, without any apprehensions from those elegant attacks which have been aimed at me from every quarter. [Childs, *Debates*, 135–36]¹⁴

◆

R. R. LIVINGSTON. Like Sir John Falstaff I am happy if I have not wit myself I have been the Cause of Wit in others—

I want to shew that I am consistent with myself

I said a Govt. consisting of a League of States cannot exist—and attempted to prove it—

I said the Senate could do no act—

He then sophistically

He says I assert that the Genl. Govt is Supreme as to certain Acts—
That the State Govtmts. are Supreme to certain other Acts—No Contradiction in this—

I did not mean to assert that

But what is worse than all is that my worthy kinsman regardless of
How have I treated Mr. Holt with disrespect—

I said I had Seen a Something which I supposed was the Cap of Liberty but that I now found it was from a prophetic Spirit and Tipical of the
Sword—

Have I come forward first—was I not first attacked—

I will measure to others the Measure they give me—

The other Argumt. was fair—They have raised a Govt. and no Govt. one Govt. and 13 Governments—

I Cannot treat things otherwise than as they strike my feelings—
[McKesson's Notes, NH]

* * * * *

MELANCTON SMITH. I said the Impracticability of this Tax went only to a part of it—I argued that they could not lay assess or Levy Taxes as they are now generally laid—I admitted they could Tax Houses—They could lay a poll Tax—Tax Lands—Tax Manufactures

The Gent. [Robert R. Livingston] said the other day *The Senate had no Power*—

I therefore reasoned on it to Shew the Gent his reasoning was so-phistical— [McKesson's Notes, NHi]

SAMUEL JONES. I did not say the Genl. Govt. could not lay & raise direct Taxes—I did say they could not do it with propriety—

2d Article Paragraph [of Article I, section 8]

To Borrow Money— [McKesson's Notes, NHi]

CONVENTION PROCEEDINGS. The committee then proceeded through sect. 8, 9 and 10 of this article [i.e., Article I], and the whole of the next, with little or no debate. As the secretary read the paragraphs, amendments were moved, in the order and form hereafter recited. [Childs, *Debates*, 136]

JOHN LANSING, JR., proposed An Amendment

The reasons are

That Congress can borrow Money if nine States are present

Loans should never be obtained but with Caution & from Necessity [McKesson's Notes, NHi]



LANSING. To the paragraph respecting the borrowing of money, Mr. *Lansing* proposed the following amendment—“Provided, That no money be borrowed on the credit of the United States, without the assent of two thirds of the members of both houses present.” [Childs, *Debates*, 136]

JOHN JAY. One or two objections—

If there could [be] no Members but those devoted to the public Good I should think the Amendmt. good—

But factions sometimes prevail in repub Govts. the best Constituted—

If a faction prevails on third part of the Legislature may prevent the other two thirds from obtaining a Loan when the Exigencies of the State require it or when it would be for the public Good— [McKesson's Notes, NHi]

—◆—

JAY. Factions may prevail—as in Holland—this $\frac{1}{3}$ may prevent a benefl. Loan—

{ will promote wars—
 { has been attended, with bad effects—in G. Britain—
 { more important, to form this check, than under the confedn—

In Rep. govts. sentiments under three divis[ion]s—suppose two contendg nat[ion]s—will be two parties—a third the public good—another local consid[eration]s—A Case put—suppose a contest—wt Spain Miss[issipi]¹⁵—hastened—It may happen that the honour of the Country concerned—part may regret, that this war hast[e]ned—and will be loth to go into the war—wrong to do this—unwise to leave the safety of the whole to a part—Suppose the French & America concert oper[ation]s agt. the English—the English may influence a part—so the French—

No restriction, as it respects the lower house of this kind—

the same reasoning applies to Treaties as to borrowing—no great loss in not making a Treaty—The Eastern & middle States & Southern may clash—if a majority of the Senate—The States may be so divided—

War is War—Atlantic States most likely to suffer—New States arising—

Western States, may say we will not make War—

The case of impeachments not similar—the lower house impeach by majority—two thirds of impeachments, under influence of parties— [Melancton Smith, Notes, N]

* * * * *

JOHN LANSING, JR. The Observation of has weight—

If there is any danger of Corruption the fewer to be corrupted the Easier it is done—

If the President is for or averse to a Loan he may Send the Bill back— So that two third must then agree—

This leaving much Power—

[Confederation] Congress must have nine States to borrow Money—

Congress it is said are about to borrow Money to pay Interest—If they can now borrow Money to pay Interest [McKesson's Notes, NHi]

* * * * *

JOHN JAY. People in Republic's come under three descriptions—

One party will favour one Nation

Another

A third will consider only the Interest of our own Country

Suppose a Rupture with the Spaniards urged upon us suddenly by Imprudencies there committed—

The Honor of the united States obliged to support the free Navigation of the River—

It is unwise to le[a]ve the Volition of the whole to be controuled by a part—

If in the Course of Time America and England should concert measures unfriendly to france—And If Loans should be necessary—would not france interfere—She would have Interest—Should we here Submit the will of the whole to be controuled by one third—

The Executive will rarely if ever interfere in Money Matters—and therefore he will seldom if ever oblige such a Bill to pass by two Thirds [McKesson's Notes, NHi]

* * * * *

GEORGE CLINTON. The Amendmt seems safe and proper—

The framers of the Constitution thot it safe to restrain many Powers to a larger Number than a Majority—Two thirds of the Senate necessary to form a Treaty—

On Impeachmts. Two thirds of the Court must agree and that even tho' the Penalty only removal from Office—

Would not a like Restriction here be proper and agreeable to their principle in Matters great and Important to have the Concurrence of more than a Majority¹⁶— [McKesson's Notes, NHi]

* * * * *

JOHN JAY. The House of Representatives are in no Instance confined to any thing but by a Majority—

The lower House had nothing to do with Treaties—Therefore it was prudent to have more than a majority of the Senate—

Treaties vastly convenient to a Number of States, and not other States—Therefore it was right there should be no Treaty unless agreed to by two thirds—

The States are represented as States only in the Senate—

The dangers of War may be sudden—The atlantic States may be much Interested—Shall the western States who are not Interested may refuse their Concurrence and One third of them prevent the Loan—

The Case of Impeachmts. does not apply—A Majority of the lower House can Impeach or Indict him—but they have been more Cautious as to his Trial and made 2/3d Necessary—

This is because Factions generally Occasion Impeachments— [McKesson's Notes, NHi]

* * * * *

GEORGE CLINTON. I meant that the Constitution had made two thirds necessary where there is as much danger of Influence or Corruption and that it necessary—Why not as necessary here—

We might wish a Treaty with Spain—Great Britain will oppose it [McKesson's Notes, NH]

* * * * *

ALEXANDER HAMILTON. Loans in Time of Peace peculiar to our Govt. because made thro Necessity—

The Inconvenience of being in Debt is a sufficient restriction—

If I was reason I would

The Only Method of preventing Loans to an improper Degree give them all the Resources of the Country that they may be able by their Own Efforts to avoid the Necessity of Loans—

Neither should their Power be restrained—

When the Resourses of the Country are insufficient they ought to have the Unrestricted Power of making Loans—

This is restraining the Arm of Power which is necessary for its defence—

Gent. [John Lansing, Jr., and George Clinton] seem to dread Corruption

Foreign Corruption is the most dangerous and to be dreaded—

If a foreign Power can corrupt a Small minority of your Counsel in Senate, only five, and they will prevent a Loan, which may be necessary for your Common Defence—

Corruption has had its Effects in the Commonwealths of Holland and Sweden and other Republic's—

We ought not to facilitate the like in our Govt.

We ought not to do any thing to impede a Loan when necessary—

As to the Gent from Ulster [George Clinton]—

It was a part of the policy between the Northn [and] So. Navigatg & non navigatg States that Treaties should not be made whereby many States might be Injured—

As to Impeachmts. They are the accusations of the Representatives of the People and therefore popular—

to guard Innocence it is necessary that 2 3ds. Should find the party guilty—

Tho' this may in some Cases be a proper Guard it cannot be necessary [in] other Cases—especially where the Genl defence is concerned—

Navigat Acts were contended to be made by 2 3ds. but at last a Majority prevailed¹⁷—

In this Case it would Embarrass your defence—

The Power of the President to send an Act back with his objections does not weigh—Because tho he may do that it cannot be necessary to establish it so as always to have two thirds— [McKesson's Notes, NHi]



HAMILTON. The Gentn. states, the danger of making Loans in extreme—no Instances to prove—

A nation, will seldom make them unless necessary—

Rarely happens, that Nations in peace

ours [be?] a singular instance—

To prevent Loans, is to give them the commd. of all their resources—

The Gentn. think, it necessary to lay checks—he reasons diff—no Checks should be laid, in order to guard against foreign Enemies— one third will have it in their power, to retard operations—

The Gentn. have laboured to prove Corrup—Foreign corruption most dangerous in Reps. This cannot be wise, cannot be proper—

On all quest. some truth much error—

The question, is to the facility of gaining the Resolution of the governments—

The $\frac{2}{3}$ of Senate to make a treaty, a matter of Compromise—

though a restraint may be a proper restraint on Treaties, ought not to be on common defence

Gentlemen are for throughing so many embarrts. in the way, as to divest the govt. of the necessary force— [Melancton Smith, Notes, N]

* * * * *

JOHN LANSING, JR. Several Important Sentimts. have [been] offered—

One that the Minority may Controul the Majority—

The other That the Interests of some States may Suffer by the partial or Corrupt votes of a third—

It is said that a War may be necessary—and one third may prevent it—If a war necessary The Sentimts. of a large proportion of the People must go with it—

I did not mean to say intimate that unnecessary loans had been made—I intended to State that Loans had hitherto been obtained

The differing Interests of Southern Eastern & Middle States make the Amendment necessary—

If the President from whatever Quarter has any local Views [McKesson's Notes, NHi]

* * * * *

RICHARD MORRIS. The Gent. [John Lansing, Jr.] moved this Amendmt. for want of Confidence

This Amendmt. will when necessary may be frustrated—but when Wanted he weakens the Security to obtain it— [McKesson's Notes, NHi]



MORRIS. The want of confidence in the govt.,—this reason operates diff[er]ently when necessary to make a Loan— [Melancton Smith, Notes, N]

* * * * *

ALEXANDER HAMILTON. The Gent [John Lansing, Jr.] says if they are disinclined to a War they will clogg it agreed—but his Amendment is to encrease their Power

If the President interposes Objections from Local Views it is an evill which can only be remedied by 2 3ds.

The Gent would have 2 3ds in all Cases—This encreases the Evil—
The fisheries are claimed by France England & the Eastern States
The Navigation of the Mississippi

Our Western Posts—perhaps we could persuade a Majority to assist us to obtain them—but perhaps one third part might not concur—

It should be in our power to enforce a defence and assert the Rights of the Nation—And the Major will should be left open to make the defence and assert the Rights—

When you cannot raise more Money by Taxes and more is necessary you must have recourse to Loans—And must not fetter the Governmt. [McKesson's Notes, NHi]



HAMILTON sd If the States are not united, ther[e]fore necessary to clog it—concludes the other way—

The major Interests, ought always to govern—

If it shd. become a steady principle, not to make war for rights, soon have no rights— [Melancton Smith, Notes, N]

* * * * *

JOHN JAY. Suppose we were in a dangerous War as in 78–79 or 80 Would you put it in the power of five Men to disarm the Continent¹⁸—not five States—Only five Men in Senate may disarm the Continent— [McKesson's Notes, NHi]



JAY. The danger of the amendt. calls him up—

Suppose a dangerous war will it be wise to put it in the power of 5 Men to disarm the Continent— [Melancton Smith, Notes, N]

MELANCTON SMITH. The Gent [John Jay] asks

I ask is it prudent to put it in the Power of five men to engage you at their pleasure in a Dangerous War—

If the Govt. had a proper Representation the power could not be so dangerous—

This Restriction is to restrain men from doing—to restrain them from running you in Debt or running you into War & devastation—

How was Britain be enabled to carry on wars (perhaps often from Ambitious Motives or Ambitious Leaders[])—By borrowing Money—

It is true the Amendmt. liable to the Objections made to it—

We were allways charged with fears of Influence—Now the fears of Influence are held up in all their Terrors—

There will be in every Country a Class of Men who will wish for and endeavour to

Better to omit two [McKesson's Notes, NHi]

JOHN LANSING, JR. I contended that if any Principle in a Govt. amounting to one third of the People cannot be brot to agree to any Measure—they ought to be gratified if it can be done consistent with the com[mon] Safety—

Mr. Lansing restated [McKesson's Notes, NHi]

GEORGE CLINTON. If the Amendmt. is agreed to it will only give a proper Security to the Lender—

The president can always from his influence and Situation require 2 3ds. unless you lessen the Number [McKesson's Notes, NHi]

RICHARD HARISON. If I understand the Gent from Dutchess [Melancton Smith]—You are to form a Govt. that will not admit of War—

There have been wars of Ambition—

Wars for defence agt. Tyranny—War for defence of Liberty—

A Gent from N York Mr. Jay—Stated that it would be necessary to currupt but five—The Gent. says only necessary to currupt but *Eight*¹⁹ as the Clause Stands—

Why encreas the Evil—

It is said Many of the States may [be] averse to the Warr—

The Amendmt increases the Evil

We may be engaged in a War for defence agt. Ambition—

Our Resources may be exhausted—

This Restraint may prevent obtaining Loans and may thereby bring on our Inevitable Destruction

It is not necessary to interest the feeling of all the People of the Country—The more distant States may not have all their passions [McKesson's Notes, NHi]



HARISON. If the Argts. carried to length to prove, that Wars ought not to be entered into

Wars of ambition on one side—on the other of defence—concludes against war—

This Arg. ansd. by saying not necssy.—if an evil why [increase?] 8 to 5²⁰— [Melancton Smith, Notes, N]

* * * * *

ALEXANDER HAMILTON. I add to enforce the Ideas of the Member who spoke last [Richard Harison]—

The Gent from Dutchess [Melancton Smith] says it is less dangerous to prevent grant power to restrain an Act than a power to do

Here the Power to restrain is as dangerous as to do an Act—The Power to restrain here is to restrain you from your defence—

The Gentleman contends that there may be corruption in a Majority or the whole—

We contend that there may be corruption in a Small Body only *five*²¹

If evils are to be submitted to which to be preferred—to trust a Majority of your whole Govt. and president to enter into a War of Ambition—or to put it into the power of a Minority to prevent your own defence agt. an Ambitious War—

What Interest in a Republic to have a War of Ambition—Some Individuals may obtain A part of the Common Fame—but no man can acquire Territory—The [McKesson's Notes, NHi]



HAMILTON. power of Restraint dangerous—we may have a War of defence—therefore dangerous.

The reasoning, restri[c]ting, just or unjust—

The object to carry on war for defence—ill founded, as applys—

Contending, for corruption of a majority—

they say a Corrupt. to a small part—

Improbable the whole, shall be corrupted and corrupt the whole—

Republic less likely to go to [Melancton Smith, Notes, N]

* * * * *

MELANCTON SMITH. A Gent [Richard Harison] says I would have no Warrs—

I said that when a restrictive could do any harm would only be in the Time of a Defensive Warr—

Will not every man then Consent would any Man oppose—

If this Country was attacked—is there any man who would refuse—
Has any Gent seen an Instance in Congress where the Consent of Nine States necessary²²—Sometimes every Mans Consent necessary—

This will not disarm Govt. perhaps [McKesson's Notes, NH]

* * * * *

SAMUEL JONES. The Argumts. are comprised within a narrow Compass—

Sufficient has been Said on both Sides—

To Establish Post Offices and Post Roads

Mr. Jones moved an Amendment—

“Resolved as the opinion of this Committee that the Power of the Congress to establish post Offices and Post Roads is not to be construed to extend to the laying out making Altering or repairing Highways in any State—”²³ [McKesson's Notes, NH]

* * * * *

CONVENTION PROCEEDINGS. To the clause respecting the establishment of post offices, &c. Mr. *Jones* moved the following amendment: “Resolved, as the opinion of this committee, that the power of the Congress to establish post-offices and post roads, is not to be construed to extend to the laying out, making, altering or repairing high ways, in any state, without the consent of the legislature of such state.” [Childs, *Debates*, 136–37]

1. See Convention Debates, 1 July, at note 17, and note 17 (above).

2. The cap of liberty or Phrygian cap in the Roman Empire was given to manumitted slaves to wear as a symbol of liberty. Not only was the cap evidence of a freed slave's freedom, it also indicated that his descendants would be considered citizens of the empire. In Revolutionary America, the cap became a symbol of freedom.

John Vardill's “tory wit” concerning the cap of liberty has not been located in his writings, but Americans had good reason to consider him their enemy. Vardill (1749–1811), a 1766 graduate of King's College (Columbia), was awarded an M.A. in 1769 and was appointed a fellow and professor of Natural Law at King's in 1773, but he did not fill that chair. With Myles Cooper, the president of King's, he supported Anglican (especially an American bishopric) and Loyalist causes. In 1774 Vardill left for England, where he was ordained an Anglican priest. In that year he was awarded an M.A. degree by Oxford University. He was named Regius Professor of Divinity at King's by royal warrant in 1778, but he did not fill this chair either. He spent the Revolution in England, where the Crown paid him to write pamphlets and newspaper articles and to obtain intelligence from Americans and American sympathizers. In 1783 Vardill submitted a petition to the Loyalist Commissioners, claiming that in 1774 and 1775 he had obtained intelligence from members of Congress, including John Jay and James Duane.

3. See Convention Debates, 1 July, at note 15, and note 15 (above).
4. For a brief report of Gilbert Livingston's speech, see Childs's *Daily Advertiser*, 8 July (below).
5. The philosopher in question was probably Anthony Ashley Cooper, third Earl of Shaftesbury (1671–1713), who said "Truth, 'tis suppos'd, may bear *all* Lights: and *one* of those in which Things are to be view'd in order to a thorow Recognition, is that by which we discern whatever is liable to *Ridicule* in any Subject." See *Sensus Communis: An Essay on the Freedom of Wit and Humour. In a Letter to a Friend* (London, 1709), 3.
6. For Williams' proposed amendment of 26 June, see Convention Debates, 26 June, at note 9 (above).
7. For a brief report of Williams' speech, see Childs's *Daily Advertiser*, 8 July (below).
8. For a brief report of Smith's speech, see Childs's *Daily Advertiser*, 8 July (below).
9. William Shakespeare, *Henry IV*, Part II, Act I, scene 2, lines 9–10. "I am not only witty in myself, but the cause that wit is in other men."
10. William Shakespeare, *Julius Caesar*, Act III, scene 1, line 77. "*Et tu, Brute?*"
11. See Convention Debates, 1 July, at note 15, and note 15 (above).
12. See Convention Debates, 1 July, at note 17, and note 17 (above).
13. Robert R. Livingston was attacked by Melancton Smith on 20 June, the day after Livingston's speech that began the debate on the Constitution. (See Convention Debates, 20 June, at note 15, above.)
14. For a brief report of Robert R. Livingston's speech, see Childs's *Daily Advertiser*, 8 July (below).
15. If the United States had gone to war against Spain, it would have been over the right of the United States to navigate the Mississippi River. See CC:46.
16. This first of Clinton's several speeches on this day was probably the one that was interrupted by the arrival of the news that the Virginia Convention had ratified the Constitution on 25 June. See *Daily Advertiser*, 8 July (below). See also "The Arrival in New York of the News of Virginia's Ratification of the Constitution," 2 July 1788 (below).
17. In the Constitutional Convention, one of the compromises that was fashioned between the Northern and Southern states concerned the passage of navigation acts. The South, suspicious of the North, wanted a two-thirds vote on navigation acts so that it could protect itself against legislation harmful to its interests. However, the South agreed that navigation acts could be adopted by a simple majority of each house of Congress when the North agreed to delay a possible congressional prohibition of the slave trade until 1808 and to a tax or duty on the importation of each slave that would not exceed ten dollars.
18. The first Senate under the Constitution would have twenty-six senators. A majority (or fourteen senators) would constitute a quorum. Therefore, one-third of the senators present (i.e., five senators) would prevent borrowing money.
19. The delegate who said "*Eight*" has not been identified but it probably was Melancton Smith.
20. See note 18 (above).
21. See note 18 (above).
22. Under the Articles of Confederation (CDR, 92), the vote of nine states was needed to declare war or peace, to borrow money, or to take action on other specified matters of importance.
23. According to the *Daily Advertiser*, 8 July (below), Jones's motion "instead of a debate, created much laughter."

Newspaper Reports of Convention Debates, 2 July 1788

*New York Daily Advertiser, 8 July 1788*¹

The opposition, mortified in the most poignant degree, prepared industriously to give a retort the next morning. Accordingly the battery was opened on the next day (July 2) by Mr. Gilbert Livingston, a kinsman of the Chancellor, with a serious and illiberal invective.—Not being possessed either of talents for repartee or abilities to reason, he answered the Chancellor with personal abuse—accused him of being an Infidel and a Tory—and loaded him with epithets which painted a monster instead of the most amiable of men. So unprovoked an attack excited in both parties the utmost disgust. The sentiments in the features of his friends was evidenced by a look of melancholy disgust; in those of his enemies by a smile of ineffable disdain: some of his party even left the room with apparent indignation.

Having finished, he sat down, not with a countenance of conscious confusion; not with that look of sorrowful perplexity, which men of sense and sensibility feel when the warmth of an unguarded moment has exposed them to censure or contempt; but with a calm invariable composure, and a self-satisfied felicity of face. This most generous man was followed by the HON. JOHN WILLIAMS, who came forth a doughty champion, and brandished his falchion in a most gigantic style.—He brandished it a while; but could not find his foe.—All around looked on the glittering blade with a sweet complacency, which robbed him of his rage;—and after a few harmless circles in the air, he restored the mighty weapon peaceful to its scabbard.

Mr. M. SMITH rose, and with sufficient decency and considerable ingenuity, together with a tolerable dash of humor, retorted on the Chancellor.—His wit seemed to have no tincture of malevolence, not to be aimed at the person or character, but the arguments and imagination of his antagonist.—His raillery, however, did not, like that of the Chancellor, spring spontaneous and sudden from the occasion; it seemed more premeditated and artificial; and, as was remarked of Demosthenes' Orations, smelt of the lamp.²

The CHANCELLOR then rose, and replied to each one's attack, with perfect temper and the most engaging good humor.—In particular, he addressed his *honorable* relation, who had the most cruelly assaulted him; lamented pathetically that his worthy kinsman, regardless of their common ancestry and the tender ties of blood, should have aimed his dagger too at the bosom of his friend:—And exclaimed with affectionate astonishment, in the words of Cæsar, "*and thou too Brutus.*"—The Chancellor's former speech shewed the rich extent of his fancy; in the

present all were amazed with the instantaneous elasticity of his genius.—In the former his wit was a pure, but delightful varying current; in the latter, it was an electrical shock.

After the Chancellor was seated, on the motion of Mr. JONES, the committee proceeded to take up the next clause, which authorises Congress to make loans: Here Mr. LANSING proposed an amendment, restricting Congress from making any loans, but by the concurrence of two-thirds of both Houses. This proposition occasioned some debate, in which Mr. JAY, Mr. HAMILTON, Mr. HARRISON, and the CHIEF JUSTICE [Richard Morris], bore a part; they shewed, in the clearest manner, the impropriety and dangerous consequence of such an amendment—Those who supported the amendment, were Mr. M. SMITH, Mr. LANSING, and the GOVERNOR: while the Governor was speaking, Col. Livingston, who arrived at Poughkeepsie, in 9 hours and 1-4 from this city, made his appearance in the Convention Chamber, with the interesting intelligence of the ratification of Virginia, which occasioned such a buz through the House, that little of his Excellency's Speech was heard.

The debate on Mr. LANSING's motion having subsided, Mr. JONES brought forward another amendment, to the clause which enables Congress to establish Post-offices and Post-roads—His amendment was to restrict Congress from laying out or *repairing* any roads, without the consent of the Legislature of the State in which the same may be. This instead of a debate, created much laughter,³ and the committee with a view of taking time to consider of the *importance* of the motion, rose and adjourned.

In the afternoon, a respectable number of Federalists, whose exultations on the happy news from Virginia, were too great to be confined to their own breasts, had a meeting to congratulate each other, fired ten cannon in honor of the ten adopting States, and with three huzzas sent the welcome news to their friends in the country.⁴

1. This report of the debates of 2 July by the *Daily Advertiser* was preceded by a report of the debates of 1 July (above) and followed by another of the debates of 3 July (below). For a list of the newspapers that reprinted these reports, see the headnote to Convention Debates, 1 July (above). On 10 July the *New York Journal* (Mfm:N.Y.) reprinted a shortened version of the *Advertiser's* report of 2 July with some changes. Significant changes are noted in footnotes 3 and 4.

2. Plutarch's biography of Demosthenes—found in his lives of noble Greeks and Romans—noted that Pytheas made this comment about the orations of Demosthenes, meaning that Demosthenes was not known for extemporaneous speaking and that his orations seemed overworked. "Smelt of the lamp" implies that Demosthenes worked into the night on his speeches. It is also known that Demosthenes worked in an underground cave that was lighted only by a lamp.

3. The *New York Journal* did not report that Jones's amendment "created much laughter."

4. The *New York Journal* did not mention this celebration of Virginia ratification. For another account of the Poughkeepsie celebration, see *Country Journal*, 8 July (RCS:Va., 1726). On either 2 July or shortly thereafter, Nicholas Power of the *Country Journal* struck a broadside that included the vote on Virginia ratification, the Virginia Form of Ratification, and an extract of a Richmond letter stating that the Virginia Convention was considering recommendatory amendments to the Constitution (Evans 45393).

New York Journal, 10 July 1788¹

Extract of a letter from Poughkeepsie, July 5.

“The chancellor has had a second drubbing from G. Livingston, M. Smith, and Mr. Williams. In reply to the first the chancellor very elegantly observed, that he was particularly surprised, and confounded, at the attack of his honorable kinsman over the way, who, regardless of their ties of blood—of their common ancestry—and of their common name—had joined the throng in pointing their daggers at his breast; and he could not help exclaiming, with Cæsar, ‘and thou too, my Brutus.’²

“Mr. Mayor of New-York preceded the Chancellor on the occasion,³ which drew forth the reply of the three gentlemen above mentioned; he, in an harangue of two hours and an half, which consisted chiefly of declarations of his intended brevity of exordium and peroration, raised into view the devastations of the late war. Mr. M. Smith, in his reply to the Chancellor, observed, that his colleagues, Mr. L. and Mr. W. had taken the subject in too *serious* a light. The honorable gentleman from New-York (meaning the Mayor) had favored the committee with a *direful tragedy*, and that the honorable gentleman (the Chancellor) had very properly, after the committee had been fatigued, and become gloomy, entertained them with a *farce*, well calculated to amuse the ladies (a number of whom were attending.) Mr. Williams remarked, that for him to meet the gentleman (the Chancellor) on the ground of ridicule, would be like Don Quixot’s attack on the *windmill*, supposing it to be a *hero*: he also took notice, that the gentleman had declared, that the whole committee had been *convinced*, by Mr. Hamilton’s reasoning, a day or two before; he could not conceive from whence the honorable gentleman derived this knowledge, unless he possessed the gift of second sight.

“Yesterday was celebrated by the Convention, and the military gentlemen of the vicinity, the *Anniversary of Independence*, in which all parties united: there was a federal salute of 13 guns at 12 o’clock, and after dinner thirteen toasts were drank, accompanied with the discharge of as many guns, and the day passed off very well, and in pretty good humour.”⁴

1. This extract of a letter was reprinted in the Philadelphia *Independent Gazetteer*, 14 July; *Pennsylvania Journal*, 16 July; and Richmond *Virginia Gazette and Weekly Advertiser*, 24 July (first two paragraphs). See also notes 2 and 4 (below) for partial reprintings.

2. This paragraph was reprinted in the *Massachusetts Gazette*, 18 July; and Portland, Maine, *Cumberland Gazette*, 24 July.

3. For Mayor James Duane's and Chancellor Robert R. Livingston's speeches, see Convention Debates, 1 July (above).

4. This paragraph was reprinted in whole or in part in the *Massachusetts Centinel*, 16 July; *Massachusetts Spy*, 17 July; *Massachusetts Gazette*, 18 July; Portland, Maine, *Cumberland Gazette*, 24 July; and *Providence Gazette*, 26 July. For the celebration of the Fourth of July in Poughkeepsie, see RCS:N.Y., 1290–92.

Private Commentaries on the Convention, 2 July 1788

De Witt Clinton to Charles Tillinghast
*Poughkeepsie, 3 July 1788*¹

(The Convention have now got to the 2d. Article²—several amendts. have been proposed this day & none disputed)—this conduct is somewhat singular³—(Yesterday the news of the Virginia reservatory adoption arrived here from N York by Bil. Livingston—he came in 9 hours as he says⁴—It has made, in my opinion, no impressions upon the republican members.) I wrote to Mr. Hughes the other day—he will inform you of the issue of the dispute between Lansing & Hamilton.⁵ The Chancellor the day before yesterday attempted to ridicule the opposition out of their arguments—but yesterday he was severely attacked by G. Livingston, Williams, and M. Smith—he however answered and acquitted himself with great address. One remark of Judge Smith's was so apropos to the Chancellor's character that I cannot help setting it down. The Chancellor had ridiculed the notion of being afraid to lodge the purse and the sword in Congress in an able manner. Judge Smith in answer observed that he had no objections to giving the Congress the sword, but he was for restricting their power over the purse—because the Honble Gentlman. very well knew that some people who had no great inclination to handle the sword, were notwithstanding very fond of thrusting their hands into the purse—this observation the Chancellor in reply passed over—Williams indirectly compared him to a Windmill—and G. Livingston charged him with ridiculing John Holt and the Bible—all your friends here are well—My respectful compliments to the General⁶ and family—

I am sir Your sincere friend &c.

1. RC, Lamb Papers, NH. A draft is in the De Witt Clinton Papers in the Rare Book and Manuscript Library at Columbia University. Clinton dated this letter 2 July but the text reveals that it was written on 3 July. For more on the dating of Clinton's letter, see the footnotes that follow. The text in angle brackets was printed with deletions and alterations in the *New York Journal* on 7 July, under the heading "*Extract of a letter from*

Poughkeepsie, July 3" (Mfm:N.Y.). (The *Journal's* printing was reprinted by the *Virginia Independent Chronicle*, 16 July.)

2. The debate over Article II of the Constitution began at the end of the day on 3 July.

3. Many amendments were proposed on both 2 and 3 July.

4. Colonel William Smith Livingston arrived in Poughkeepsie with the news of Virginia ratification between 12:30 and 1:00 P.M. (See "The Arrival in New York of the News of Virginia's Ratification of the Constitution," 2 July, below.)

5. See Convention Debates, 28 June, and "Reports on the Altercation Between Alexander Hamilton and John Lansing, Jr.," 28, 30 June (both above).

6. John Lamb.

Cornelius C. Schoonmaker to Peter Van Gaasbeek
*Poughkeepsie, 2 July 1788*¹

We have this day by Express, per W. S. Levingston from New York, at half past twelve, Received an Account of the Adoption of the proposed new Constitution by the State of Verginia,² we cannot inform you particularly of the principles of the Ratification—the Account is that it is adopted by a Majority of 88 to 78. that there are certain Conditions explanitory that whatever power is not expressly given by the Constitution shall be Reserved to the State—be their Conditions as they may, we must make Conditions for ourselves, and I trust that our Deliberations will not in the least be Affected or Changed, in consequence of the States of New Hampshire & Verginia Acceeding to the Constitution—we have this day concluded the Debates on the 8th. Section of the first Article Relative to the Revenue which was closed with some very pertinent Remarks made by Mr. G. Levingston, Williams, and M. Smith in answer to a Masterly piece of Redicule delivered in a speech by the Chancellor Yesterday³—and are now on the post Offices & post Roads—to which an Amendment is proposed⁴—there has been a considerable deal of Warmth in the Convention since you left this—which in the Bounds of a Letter cannot be described⁵—Mr. Banker has wrote to Mr. Tappen⁶—You'll inform our friends of the above Account from Verginia, and let not our spirit fail us—

[P.S.] The federalists have no advantage of us yet.

1. RC, Roosevelt Collection, NHyF. This letter—addressed to Van Gaasbeek in Kings-ton—was "favor'd by Capn. Yeoman's."

2. See "The Arrival in New York of the News of Virginia's Ratification of the Constitution," 2 July (immediately below).

3. See Convention Debates, 1 and 2 July (both above).

4. This amendment was proposed by Samuel Jones near the end of the day on 2 July and "instead of a debate, [it] created much laughter" (*Daily Advertiser*, 8 July, at note 3, above).

5. On 4 July, John Jay wrote Francis Corbin "our Convention proceeds with singular Temper and moderation. the opposition however still continues very inflexible, and to

appearance little disposed to yield” (VI, below. See also Jay to George Washington, post-24 June, and Jay to John Adams, 4 July, both VI, below.) The moderate stance of Federalists in not opposing the Antifederalist amendments helped to keep tempers cool. On 8 July the *New York Packet* noted that it had been informed by a gentleman who had arrived from Poughkeepsie the day before “that the spirit of warm contention had in great measure subsided between the parties in Convention, and that cool reasoning instead of angry debate had taken place in that honorable body, and that matters were likely to take a *favorable turn*” (VI, below. See also *Daily Advertiser*, 9 July, and *Independent Journal*, 12 July, both VI, below.).

6. “Mr. Banker” was Abraham B. Bancker, one of the two Convention secretaries, and “Mr. Tappen” was probably Christopher Tappen of Kingston, a major in the New York Militia, 1775, who represented Ulster County in the First, Third, and Fourth Provincial congresses. He was Governor George Clinton’s brother-in-law. Clinton held the office of clerk of the Ulster County court from 1759 until his death in 1812. Tappen was his deputy.

Editors’ Note
The Arrival in New York of the News of
Virginia’s Ratification of the Constitution
2 July 1788

After the news that New Hampshire had ratified the Constitution was received in Poughkeepsie on 24 June, New York Convention delegates looked toward Virginia. An express rider left New York City on 25 June for Richmond with the news of New Hampshire’s ratification. Three days later, in Alexandria, the rider met a rider coming from Richmond with the news that Virginia had ratified. On 29 June, the New York rider started back to New York City, arriving there on 2 July, between 2:00 and 3:00 A.M. Shortly after, yet another rider—Colonel William Smith Livingston—left the city and reached Poughkeepsie between 12:30 and 1:00 P.M., going directly to the chamber of the New York Convention with the news of Virginia’s ratification.

Shortly before Colonel Livingston arrived in Poughkeepsie, New York Convention delegate Alexander Hamilton wrote James Madison, a Virginia Convention delegate, that “I regret that your prospects were not yet reduced to greater certainty. There is more and more reason to believe that our conduct will be influenced by yours.

“Our discussions have not yet travelled beyond the power of taxation. To day we shall probably quit this ground to pass to another. Our arguments confound, but do not convince—Some of the leaders however appear to me to be convinced *by circumstances* and to be desirous of a retreat. This does not apply to the Chief, who wishes to establish CLINTONISM on the basis of *Antifederalism*” (2 July, Syrett, V, 140–41).

At 1:30 P.M., Philip Schuyler, a Convention observer and Hamilton’s father-in-law, wrote that he trusted the news from Virginia would have “a proper influence on the minds of those in the Convention here who

have not ~~totally~~ resolved to shut their heirs [i.e., ears] and to steel their hearts against all conviction.—I do believe, nay I perceive that ~~many~~ several of those in opposition who came with prejudices created by influence will not sacrifice their Country to the Obstinacy of certain desperados—I do not apply this term to those who have taken a lead in debate in opposition to the constitution, but to others who—but prudence dictates that I should not too strongly mark the men I allude to” (to Stephen Van Rensselaer, 2 July, RCS:N.Y., 1214–15). John Jay thought that the news of Virginia ratification “cannot fail to make a deep Impression on the other Party” (to Francis Corbin, 4 July, VI, below).

Federalist delegates to the New York Convention and observers of the debates were elated when they learned Virginia had ratified the Constitution. Colonel Livingston’s “appearance in the Convention Chamber” as Governor George Clinton was speaking “occasioned such a buz through the House, that little of his Excellency’s Speech was heard” (*Daily Advertiser*, 8 July, above). The *Country Journal*, 8 July, reported that Livingston “was received with great joy by the federal party,” while a Convention observer remarked that “the Federalists in the Convention . . . cheered loudly” (RCS:N.Y., 1217, 1218). Another observer noted that “Joy and hilarity were painted in the faces of the Federalists” (From Henry Izard, 8 July, RCS:N.Y., 1297). John Jay wrote that the news was “most welcome to our Fœderalists” (to Francis Corbin, 4 July, VI, below).

Antifederalists in the New York Convention, however, seemed little affected by the news of Virginia ratification. Observer De Witt Clinton asserted that the news “has made, in my opinion, no impressions upon the republican members” (to Charles Tillinghast, 3 July, above), while delegate Nathaniel Lawrence said that the news “seems to have no effect on *Us*” (to John Lamb, 3 July, RCS:N.Y., 1261). Delegate Cornelius Schoonmaker was unmoved by the Virginia ratification. Virginia, he said, had set its conditions; it is now up to the members of the New York Convention to “make Conditions for ourselves” (to Peter Van Gaasbeek, 2 July, above). An unidentified letter writer claimed on 6 July that “the antifederal party took no more notice of it [the news] than if the most trifling occurrence had been mentioned” (*Massachusetts Centinel*, 16 July, VI, below). Federalist John Jay realized that Antifederalists were unhappy with the news but that their opposition “nevertheless continues pertinacious” (to George Washington, 4, 8 July, RCS:N.Y., 2114–15. See also an unidentified letter writer, *Daily Advertiser*, 7 July, RCS:N.Y., 2093, and De Witt Clinton to Charles Tillinghast, 3 July, above).

The news of Virginia ratification caused Federalists to change their “plan of defence.” Antifederalist delegate Nathaniel Lawrence wrote Antifederalist leader John Lamb on 3 July that “You have heard no doubt that they have disputed every inch of ground but to day they have quietly suffered us to propose our amendments without a word in opposition to them—What their object is I know not, but I will do myself the pleasure of informing you as soon as it is discovered” (RCS:N.Y., 1261).

Federalists explained their strategy. Abraham Bancker, a Richmond County delegate, declared that “the Gentlemen on the federal Side, immediately on receiving a certain Account of the Adoption of the Constitution by the Convention of Virginia, have changed their System of proceedings; whereby it appears manifest, No Reply will be made to any of their [Antifederalists’] propositions [i.e., amendments to the Constitution], untill after the whole of their Objections Shall be Stated” (to Evert Bancker, 5 July, RCS:N.Y., 2106. For similar letters of other Federalist Convention delegates, see John Jay to Francis Corbin, 4 July, and Isaac Roosevelt to Richard Varick, 5 July, both VI, below. See also *Daily Advertiser*, 9 July, and *Albany Journal*, 7 July, both VI, below.).

(See “News of New Hampshire and Virginia Ratification Arrives in New York,” 24 June–2 July, RCS:N.Y., 1210–21, and “The Arrival in New York of the News of New Hampshire’s Ratification of the Constitution,” 24 June, above. See also “The Establishment of a Federalist Express System Between the New Hampshire and New York Conventions,” 4–16 June, RCS:N.Y., 1124–28, “The Federalist Express System Between the New Hampshire, New York, and Virginia Conventions,” 24–26 June, RCS:Va., 1672–75, and “Philadelphia, New York City, and Poughkeepsie Celebrate the News of Virginia Ratification,” 30 June–2 July, RCS:Va., 1723–27.)

Since amendments to the Constitution were central to the ratification debate in New York, New Yorkers, especially Antifederalists, were interested in what the Virginia Convention had done about amendments. On the morning of 2 July, the *Independent Journal*, a New York City newspaper, informed its readers it had heard Virginia had ratified the Constitution, but it hoped “this day’s post will bring a confirmation” of that intelligence (RCS:N.Y., 1215). Later that day, the *Independent Journal* received such confirmation and printed a supplement, in the form of a broadside, that included the 25 June vote of the Virginia Convention on ratification, the text of the Virginia Form of Ratification, and an extract from a Richmond letter. The Richmond letter writer advised “that a motion for previous amendments was rejected by a majority of EIGHT; but that some days would be passed in consid-

ering subsequent amendments, and these, it appeared, from the temper of the Convention, would be RECOMMENDED” (Evans 21559 or Mfm:Va. 286).

On the same day, Nicholas Power of the Poughkeepsie *Country Journal* struck a broadside containing the same information as that in the *Independent Journal* (Evans 45393 or Mfm:Va. 284). (Power also reprinted the Virginia Form of Ratification and the letter extract in the *Country Journal* on 8 July.) Eight other New York newspapers reprinted the Form of Ratification between 3 and 8 July; none of them printed the letter extract. In reprinting the Form of Ratification on 3 July, the Antifederalist *New York Journal* appended this editorial comment: “*Our readers will readily perceive that the preceding ratification is more pointed, and differs in many instances, very materially from any one yet produced.*” Below this editorial statement, the *New York Journal* declared “We are further informed, from Virginia, that the CONVENTION are still sitting; and that their business is to prepare such AMENDMENTS to the general system as they, on mature deliberation, may judge proper” (RCS:Va., 1725–26).

On 27 June the Virginia Convention agreed to forty amendments—twenty structural amendments to the Constitution and a Declaration of Rights containing twenty amendments. These forty amendments first appeared in the *Virginia Independent Chronicle* on 2 July, and in New York they were reprinted in the *Daily Advertiser*, 9 July, *New York Journal*, 10 July, and *Country Journal*, 15, 22 July.

New York Convention delegate Alexander Hamilton had undoubtedly seen the Virginia Convention’s amendments and its Form of Ratification, when, on 15 July, he “brought forward [in the Convention] a plan for ratification, nearly similar to that of Virginia, only containing more declarations” (*Daily Advertiser*, 17 July, and Philip Schuyler to Stephen Van Rensselaer, 15 July, RCS:N.Y., 2175, 2176).

The New York Convention Thursday 3 July 1788

Convention Debates and Proceedings, 3 July 1788

CONVENTION PROCEEDINGS. Mr. Jones—his Amendmt. [moved on 1 July] to 7 Parag. of 8 Sect of the 1st. Article [i.e., to establish post offices and post roads] read and passed—

Mr. Jones & Mr Lansing

Amendmts.

To raise and support Armies [McKesson's Notes, NHi]

JOHN LANSING, JR. Standing Armies dangerous to Liberty—

Amendmt. Proposed by Mr Lansing

“Provided that no Standing Army or regular Troops shall be raised or kept up in Time of Peace without the Consent of two thirds of the Members of both Houses present” [McKesson's Notes, NHi]

◆

LANSING. Necessary that standing Armies should exist in some Circumstances—but as a Check upon this Power (wh. may be dangerous to Liberty in ~~some Situatio[ns]~~) proposes that no standing Army or regular Troops be raised or kept up in Time of Peace without Consent of two thirds of both Houses present— [Richard Harison, Notes, DLC]

CONVENTION PROCEEDINGS. Clause respecting the raising and supporting armies.

Mr. *Lansing* proposed the following.—

“Provided, That no standing army, or regular troops shall be raised, or kept up, in time of peace, without the consent of two thirds of the members of both houses present.” [Childs, *Debates*, 137]

CONVENTION PROCEEDINGS. Respecting the organizing and arming the militia, &c.

“Provided, that the militia of any state shall not be marched out of such state, without the consent of the executive thereof, nor be continued in service out of the state, without the consent of the legislature thereof, for a longer term than six weeks; and provided, that the power to organize, arm and discipline the militia shall not be construed to extend further, than to prescribe the mode of arming and disciplining the same.” Moved by Mr. *M. Smith*. [Childs, *Debates*, 137]

◆

CONVENTION PROCEEDINGS. To the two Clauses relative to the Militia Mr. M Smith moved the followg. Amendment—

“Provided that the Militia of any State Shall not be marched out of such State without the Consent of the Executive thereof, nor be continued in Service out of the State without the Consent of the Legislature thereof for a longer Term than Six Weeks—And provided that the power to organize Arm and discipline the Militia shall not be construed

to extend further than to prescribe the Mode of Arming and disciplining the Same.” [McKesson’s Notes, NHi]

* * * * *

MELANCTON SMITH proposes an Amendment—but gives no Reason for it— [Richard Harison, Notes, DLC]

* * * * *

To exercise exclusive Legislation &ca in ten Miles Square

MELANCTON SMITH. I think the best amendmt. would be to expunge it—I will if possible think of Amendmts.¹ [McKesson’s Notes, NHi]

—◆—

SMITH thinks the federal Town should be expunged or the Clause amended—but has no Amendment prepared— [Richard Harison, Notes, DLC]

* * * * *

JOHN LANSING, JR. provision should be made to preserve a republican form of Govt. within the Jurisdiction of the Genl Govt.—And Provision that forts and Dockyards Should not become Sanctuaries agt. the Process of Courts in their respective States

To the last Clause and the next “To make all Laws which shall be necessary & proper[”]

Mr. Lansing proposed the following Amendmt.

“Provided that no power shall be exercised by Congress, but such as is expressly given by this Constitution—And all other powers not expressly given shall be reserved to the respective States to be by them exercised.” [McKesson’s Notes, NHi]

—◆—

LANSING proposes Amendment that no Powers shall be exercised by Congress except such as are expressly given—other Powers to remain with the several States—

No Exception [Richard Harison, Notes, DLC]

* * * * *

CONVENTION PROCEEDINGS. Respecting the power to make all laws necessary for the carrying the constitution into execution.

“Provided, that no power shall be exercised by Congress, but such as is expressly given by this constitution; and all other powers, not expressly given, shall be reserved to the respective states, to be by them exercised.” Moved by Mr. *Lansing*.

Sec. 9. Respecting the privilege of *habeas corpus*.

“Provided, that whenever the privilege of *habeas corpus* shall be suspended, such suspension shall in no case exceed the term of six

months, or until the next meeting of the Congress.” Moved by Mr. *Lansing*. [Childs, *Debates*, 137]

CONVENTION PROCEEDINGS. Sect 9. paragraph 2d.

Mr. *Lansing*

Moved the following Amendmt.

“Provided that whenever the privilege of *Habeas Corpus* shall be Suspended such Suspension shall in no Case exceed the Term of Six Months or until the then next Meeting of the Congress”—*10 Days*. [McKesson’s Notes, NHi]

CONVENTION PROCEEDINGS. Mr. *Lansing*’s Amendmt.

Suspension to be only to the next Meeting of the Legislature or for six Months— [Richard Harison, Notes, DLC]

CONVENTION PROCEEDINGS. Respecting *ex post facto* laws.

“Provided, that the meaning of *ex post facto* laws shall not be construed, to prevent calling public defaulters to account; but shall extend only to crimes.” Moved by Mr. *Tredwell*. [Childs, *Debates*, 137]

CONVENTION PROCEEDINGS. Article 1st. Sect. 9 paragraph 3.

No bill of Attainder or *ex post facto* Law shall be passed—

Mr. G. *Livingston* moved the following Amendmt.

“Provided that the Meaning of *ex post facto* Laws shall not be construed to prevent calling public Defaulters to account but shall extend only to Crimes”— [McKesson’s Notes, NHi]

GILBERT LIVINGSTON. not to extend to calling public Defaulters to Account but only to Criminal Cases.— [Richard Harison, Notes, DLC]

CONVENTION PROCEEDINGS. Respecting the ratio in which taxes shall be laid.

“Resolved, as the opinion of this committee, that no capitation tax ought ever to be laid.” Moved by Mr. *Tredwell*. [Childs, *Debates*, 138]

CONVENTION PROCEEDINGS. Sect. 9. paragraph 4.

Mr. *Tredwell* moved the Clause be amended as follows

No direct Tax shall be laid unless in proportion to the *Census* or enumeration herein before directed to be taken, and no Capitation Tax shall ever be laid—

Mr. *Tredwell* then delivered the Motion in the followg words

“Resolved as the opinion of this Committee that no Capitation tax ought ever to be laid”— [McKesson’s Notes, NHi]



CONVENTION PROCEEDINGS. Mr. Treadwell moves “that no Capitation Tax shall ever be laid”—second Amendment Resolution to the same Effect, “*as the Opinion of the Committee*”— [Richard Harison, Notes, DLC]

Sect 9. paragraph 5—“Nor Shall Vessels bound to or from one State be obliged to enter clear or pay duties in another.”

MELANCTON SMITH requests an Explanation of Mr. Hamilton— [McKesson’s Notes, NHi]

ALEXANDER HAMILTON. Mr. Hamiltons explanat[ion]—

I suppose It intends that a Vessel bound from one State to another— If She puts into any port in another State which She is bound She shall not there be Obliged [to] enter clear or pay Duties [McKesson’s Notes, NHi]

SAMUEL JONES. [McKesson’s Notes, NHi]

CONVENTION PROCEEDINGS. Clause relative to the publication of the receipts and expenditures.

“Provided, that the words *from time to time* shall be so construed, as that the receipts and expenditures of public money shall be published at least once in every year, and be transmitted to the executives of the several states to be laid before the legislatures thereof.” Moved by Mr. *Tredwell*. [Childs, *Debates*, 138]



CONVENTION PROCEEDINGS. paragraph 6. Sect. 9—

Mr. Tredwell moved for the following Amendmt.

“Provided that the words from *time to time* shall be so construed as that the receipts and Expenditures of public money shall be published at least once in every year, and be transmitted to the Executives of the Several States to be laid before the Legislatures thereof” [McKesson’s Notes, NHi]



CONVENTION PROCEEDINGS. *The same* [i.e., Thomas Tredwell] “*once a Year* & transmitted to the Executive to be laid before the Legislatures of each State”— [Richard Harison, Notes, DLC]

CONVENTION PROCEEDINGS. Clause relative to the granting titles of nobility.

“Resolved, as the opinion of this committee, that the Congress shall at no time consent, that any person holding any office of profit or trust in or under the United States, shall accept of any title of nobility from any king, prince, or foreign state.” Moved by Mr. *M. Smith*. [Childs, *Debates*, 138]

CONVENTION PROCEEDINGS. Sect. 9. Article [i.e., paragraph] 7th.

Mr. M Smith moved the following Amendmt. to the said Article—

“Resolved as the Opinion of this Committee that the Congress shall at no Time Consent that any person holding any Office of profit or Trust in or under the united States shall accept of any Title of Nobility from any King Prince or foreign State”— [McKesson’s Notes, NHi]

MELANCTON SMITH. Opinion of Committee that Congress shd. not consent to any *Title of Nobility*— [Richard Harison, Notes, DLC]

CONVENTION PROCEEDINGS. (Another Amendment—at the End of the Clause and Congress shall not consent &ca.—this given up, and the former one suffered to remain) [Richard Harison, Notes, DLC]

CONVENTION PROCEEDINGS. Sect. 10. of Article 1st.

No State shall &ca.

Or Law impa[i]ring the Obligation of Contracts— [McKesson’s Notes, NHi]

SAMUEL JONES. What is the Extent of the word *Impair* can it be defined— [McKesson’s Notes, NHi]

JONES observes is a Word of doubtful Signification— [Richard Harison, Notes, DLC]

ALEXANDER HAMILTON. The word Impair an english word and means to *weaken* or *Injure*—

This gives no Light—how far shall this weakening extend—Is it practicable so to State it as to prevent Litigation hereafter— [McKesson’s Notes, NHi]

HAMILTON supposes himself called upon says that it is a plain English Word & signifies to weaken or injure— [Richard Harison, Notes, DLC]

* * * * *

SAMUEL JONES admits it is a plain English Word but does not know how far it extends in the Constitution—how far it is allowable to impair Contracts? [Richard Harison, Notes, DLC]

* * * * *

Article 2d.

MELANCTON SMITH. Several Amendments will be proposed

1st. That he be not reeligible—

2d. That he do not be suffered to command the

3d. That he shall not pardon Treason— [McKesson's Notes, NHi]



SMITH means to propose Amendmts as to

—Re-eligibility of the President—not suffered to command Army or Navy without Consent of the Congress—nor pardon Treason— [Richard Harison, Notes, DLC]

1. Smith proposed an amendment to this clause on 7 July. See RCS:N.Y., 2109–10.

Newspaper Reports of Convention Debates, 3 July 1788

*New York Daily Advertiser, 7 July 1788*¹

Extract of a letter from Poughkeepsie, dated July 3.

“We fondly (but in vain) expected that the ratification of Virginia would have a very serious effect on the minds of the antifederal party, and would have constituted so forcible an appeal to their apprehensions, that it would have compelled them to adopt a system different from that destructive one they seem intent on pursuing.

“We find that the powers of eloquence and argument are unavailing; we shall therefore refrain from any further exertions in defence of the Constitution.

“We shall close the whole business with a strong pathetic address to their fears and their feelings, arising from the new situation of the State, if placed out of the Union, and the dreadful consequences that must ensue.

“We are waiting with great impatience for the *Act of Congress*, to put Government in motion, by fixing the previous arrangements and *the time for commencing proceedings under the New Constitution.*²

“This will add much energy to our arguments, will change the nature of the ground, and will beget a new relative situation betwixt the representatives and their constituents, which was not in contemplation at

the time of their being elected. This probably will be the foundation of an appeal of the minority to the inhabitants of the state.

“Next week will probably terminate our labor.”

1. In New York, this item was reprinted in the *Independent Journal*, 9 July, and outside the state it appeared in sixteen newspapers by 16 August: N.H. (1), R.I. (1), Pa. (6), Md. (3), Va. (4), Ga. (1). The Pennsylvania *Germantawner Zeitung*, 22 July, printed an excerpt.

2. See “Confederation Congress Makes Provision to Put the New Government Under the Constitution into Operation,” 2 July–13 September (RCS:N.Y., 1250–53).

New York Daily Advertiser, 8 July 1788¹

Thursday the Convention made some considerable progress in the business before them, having got quite through the first article of the Constitution. This great expedition however, was owing to the Federalists taking no notice of the *string* of amendments that were offered: indeed the silence of the Federalists seemed to confound the opposition, who in about two hours, having offered all the amendments they could *then* think of, moved for an adjournment in order that they might have time to prepare *more* against the next morning.²

The 2d article was then to be taken up, and we understand that Mr. M. Smith intends making three objections to the executive.—1st, that he shall not in person command the army or navy, without the consent of Congress. 2d, that he shall be ineligible after four years; and 3d, that he shall not have power to grant pardons in cases of treason.

1. This *Daily Advertiser* report of the debates of 3 July was preceded by reports of the debates for 1 and 2 July (both above). For a list of the newspapers that reprinted these reports, see the headnote to Convention Debates, 1 July (above).

2. This flood of amendments drew little response from Federalists. For the reasons behind their “silence,” see “The Arrival in New York of the News of Virginia’s Ratification of the Constitution,” 2 July (above).

The New York Convention Friday 4 July 1788

Convention Debates and Proceedings, 4 July 1788

CONVENTION PROCEEDINGS. Article 2d begun— [McKesson’s Notes, NH*i*]

* * * * *

MELANCTON SMITH. As the Convention first framed this Article the President was to hold his Office for Seven years and not be eligible a second Time—Many Reasons may be assigned for this—His power &

Interest great—If he is reeli[gi]ble he may take & pursue his own Interest too far—and will have the Means of doing it—

Mr. Smith moved for the Followg. Resolution

“Resolved as the opinion of this Committee that the President of the united States should hold his Office during the Term of Seven years, and that he should not be eligible a second time.” [McKesson’s Notes, NH*i*]



SMITH. “Resolved as the Opinion of this Committee that the President of the United States shall hold his Office during the Term of seven Years & that he shall not be eligible a second Time.—”

This he says was at one Time a Resolution of the grand Convention¹—(& I suppose we must adhere to that Idea which upon more mature Consideration appeared to them improper.) [Richard Harison, Notes, DLC]



SMITH. President dangerous if continued too long—

More independant by giving a longer duration & rendered ineligible—

Am[en]dmen]t 7 yrs. in office then ineligible

Mr Smith—

No provision for reelection in case death removal &c. [Robert R. Livingston, Notes, NH*i*]

* * * * *

Sect. 2d.

GILBERT LIVINGSTON. This Clause will permit the presdt. to make himself exceedingly formidable—

He not to be permitted to command the army militia or navy in Person without the Consent of Congress—

He should not be

Mr. G Livingston moved—

Resolved as the opinion of this Committee that the President of the united States should never command the Army Militia or Navy of the united States in Person, without the Consent of the Congress—And that he should not have Power to grant Pardons for Treason without the Consent of the Congress [McKesson’s Notes, NH*i*]



G. LIVINGSTON. President may make himself very formidable if he commands the Armies—his Power to pardon also dangerous—

Resolved as the Opinion of this Committee that the President of the United States should never command the Army, Militia or Navy in Person without the Consent of the Congress, and that he should never grant Pardon for Treason without the Consent of Congress, but may

respite until the Pleasure of Congress is known. [Richard Harison, Notes, DLC]



G. LIVINGSTON. Danger power commanding army—Amt.

Shall not command army nor grant pardons [Robert R. Livingston, Notes, NHi]

* * * * *

CONVENTION PROCEEDINGS. That the Second Section of the said Second Article having been read and Considered Mr. G. Livingston for an Amendment the following Resolution—

Resolved as the opinion of this Committee that the President of the united States should never command the Army Militia or Navy of the united States in Person without the Consent of the Congress—And that he should not have Power to grant Pardons for Treason without the Consent of the Congress—But that in Cases where Persons are convicted of Treason he should have Authority to grant Reprieves until their Cases can be laid before the Congress. [McKesson Papers, Smooth Copy, NHi]

* * * * *

MELANCTON SMITH. Great Inconveniences may arise—

He is the Commander in Chief of all the Militia—As the Clause now Stands he may in Time of War take the Command of the Army—

Government. cannot be carried on without him—Great Evils may arise thereby to the united States—

If he can pardon Treason, it may be committed by his Connivance & Consent The Offenders being certain of a pardon if Convicted—

Section 2d. paragraph 2d.

Mr. M Smith—The Senate are the Court of Impeachmts. to try all officers Impeached—And yet the Council for the appointmt. of all Officers—

Mr Smith Moved & secon[d]ed by Mr Yates for the followg Amendmt. to the 2d & 3d Parag.

Resolved as the opinion of this Committee that the Congress shall appoint in such manner as they may think proper, a Council to advise the President in the Appointment of Officers—That the said Council should continue in Office for four years—That they should keep a Record of their Proceedings and Sign the Same; and always be responsible for their Advice, and impeachable for mal Conduct in Office—That the Counsellors should have a reasonable Allowance for their Services fixed by *Standing* Laws—And that no man should be elected a Counsellor who shall not have attained to the Age of 35 years, And

who is not either a natural born Citizen or has become a Citizen before the 4th. day of July 1776. [McKesson's Notes, NHi]

—◆—
SMITH thinks the legislative & executive should be kept apart—that it is improper that the Senate who have the Power of trying Impeachments should appoint Officers—

proposes a privy Council—for Appointment of Officers— [Richard Harison, Notes, DLC]

—◆—
SMITH. Necessary because essential have government [— — —] [— — —] shd. be absent—

Mr. Smith

Objs. to appt of officers by consent senate—executive power to be *distinct*—

Amendmt proposed see amt.— [Robert R. Livingston, Notes, NHi]

* * * * *

CONVENTION PROCEEDINGS. Judge Yates proposes an Addition [to Smith's amendment for a privy council]— [Richard Harison, Notes, DLC]

1. In the debates in the Constitutional Convention, between 1 June and 6 September 1787, the term of the President was linked to his reeligibility (and the method of his election). When the term of office was seven years, the Convention generally voted that the President be ineligible a second time. Once the Convention settled on a four-year term, the provision prohibiting reeligibility was dropped. (On the President's term of office, see Farrand, I, 21, 64, 69, 72; II, 185, 493, 497, 517, 525, and on the President's reeligibility, see Farrand, I, 21, 78, 244; II, 33, 58, 120–21, 134, 185, 493, 507, 511.)

Draft of Melancton Smith's Proposed Amendments to Article II, Sections 1–2, c. 4 July 1788

At the end of the debates on 3 July Melancton Smith announced that he intended to propose three amendments to the first two sections of Article II (above). The next day Smith proposed his amendments and explained why they were needed (immediately above). At some point Smith produced this draft of these amendments. The draft, in the Melancton Smith Papers at the New York State Library, differs from the versions of the amendments that were actually introduced.

Amendments

Article 2 Sect. 1

The President of the United States shall hold his office during the term of Years and shall not be eligible a second time. And no person shall be eligible to that Office, who has not attained to the Age of 45 years—

Sect. 2.

The President of the United States shall never command the Army or Navy of the United States in Person without the consent of two thirds of both houses of the Legislature, nor shall he grant pardons for Treason, without the consent of the Legislature, but he shall have power to grant Repreives to persons convicted of Treason, until their cases are laid before the legislature for their decision

The United States shall from time to time be divided by the Congress into nine convenient Districts, for each of which there shall be one Counsellor elected every fourth year in each District, in the manner following—

The Electors in each District entitled to vote for Representatives shall vote for three persons for Counsellors, and the votes shall be returned to the Congress—And the federal Representatives and Senators assembled in one room, shall take the three persons who shall have the greatest number of Votes in each district, and by joint ballot and by majority of Votes shall elect one of them Counsellor for the District.

The said Council shall keep a record of their proceedings and sign the same, and always be responsible for their advice and impeachable for malconduct in office—

The said Counsellors shall have a reasonable allowance for their services fixed by standing Laws, and no man shall be elected a Counsellor who shall not have been seven years a Citizen of the United States, and one Year an Inhabitant of the District for which he shall be elected and have attained to the age of 35 Years—

The President shall have power by and with the consent of the Senate to make treaties provided two thirds of the Senators concur—And he shall nominate and by and with the consent of the Council, shall appoint ambassadors &c—

The Congress shall appoint the Commissioners of the Treasury, and the Treasurer of the United States—

Private Commentary on the Convention, 4 July 1788

John Jay to Sarah Jay

Poughkeepsie, 5 July 1788 (excerpt)¹

My Dr. Sally

Col. W.S. Livingston who brought us the news of the adoption of the Constitution by Virginia,² is about setting out—and I will not let him go without a few Lines for You—Yesterday was a Day of Festivity, and both the Parties united in celebrating it. Two Tables, but in different Houses were spread for the Convention—and the two Parties mingled

at each Table—And the Toasts, (of which each had Copies) were communicated by sound of Drum, and accompanied by the Discharge of Cannon³—

We shall probably be here another Week. . . .

1. RC, Manuscripts and Special Collections, N. Sarah Van Brugh Livingston Jay (1756–1802) married John Jay in 1774. She was the daughter of William Livingston (1723–1790), who was governor of New Jersey, 1776–90, and a signer of the Constitution. In July 1788 Sarah Jay was staying at her father's estate ("Liberty Hall") in Elizabethtown while her husband attended the New York Convention.

2. On 7 July, before Sarah Jay received her husband's 4 July letter, she informed him "every one is anxious to hear the effect which the accession of Virginia has had upon your Convention" (Mfm:N.Y.).

3. For the celebration of the Fourth of July in Poughkeepsie, see RCS:N.Y., 1290–92.

The New York Convention Saturday 5 July 1788

Convention Debates and Proceedings, 5 July 1788

CONVENTION PROCEEDINGS. Clause 3. Motion by Mr. *M. Smith*.

"Provided, that all commissions, writs and process shall run in the name of the people of the United States, and be tested in the name of the president of the United States, or the person holding his place, for the time being, or first judge of the court, out of which the same shall issue."

The committee then took up the 3d article. [Childs, *Debates*, 139]

◆

CONVENTION PROCEEDINGS. Mr. Smith. All Writs &ca. to run in the Name of the People of the United States—

3d. Article—

Section 1st.— [Richard Harison, Notes, DLC]

◆

CONVENTION PROCEEDINGS. To Article 2d. Sect. 3d.

Mr. M Smith moved for the following Amendment or proviso to be added to that Section—

Provided¹

Article 3d. Sect. 1.— [McKesson's Notes, NHi]

CONVENTION PROCEEDINGS. Mr. *Jones* proposed the following amendments which he explained in a speech of some length,² and was followed by Mr. *Smith*, but no debate ensued.

“Resolved, as the opinion of this committee, that nothing in the constitution, now under consideration, contained, shall be construed so as to authorize the Congress, to constitute, ordain or establish any tribunals, or inferior courts, with any other than appellate jurisdiction; except such as may be necessary for the trial of causes of admiralty and maritime jurisdiction, and for the trial of piracies and felonies, committed on the high seas; and in all other cases, to which the judicial power of the United States extends, and in which the supreme court of the United States has not original jurisdiction, the cause shall be heard, tried and determined, in some one of the state courts, with the right of appeal to the supreme court of the United States, or other proper tribunal, to be established for the purpose by the Congress, with such exceptions, and under such regulations, as the Congress shall make.”

As the secretary went on with this article, Mr. *Jones* submitted the following amendments.

Resolve 1. “Resolved, as the opinion of this committee, that all appeals from any courts in this state, proceeding according to the course of the common law, are to be by writ of error, and not otherwise.”

Res. 2. “Resolved, as the opinion of this committee, that no judge of the supreme court of the United States shall, during his continuance in office, hold any other office under the United States or any of them.”

Res. 3. “Resolved, as the opinion of this committee, that the judicial power of the United States, as to controversies between citizens of the same state, claiming lands under grants of different states, extends only to controversies relating to such lands, as shall be claimed by two or more persons, under grants of different states.”³

Res. 4. “Resolved, as the opinion of this committee, that nothing in the constitution now under consideration contained, is to be construed, to authorise any suit to be brought against any state, in any manner whatever.”

Res. 5. “Resolved, as the opinion of this committee, that the judicial power of the United States, in cases in which a state shall be a party, is not to be construed to extend to criminal prosecutions.”

Res. 6. “Resolved, as the opinion of this committee, that the judicial power of the United States, as to controversies between citizens of different states, is not to be construed to extend to any controversy relating to any real estate, not claimed under grants of different states.”

Res. 7. “Resolved, as the opinion of this committee, that the judicial power of the United States, as to controversies between citizens of the same state, claiming lands under grants of different states, extends

only to controversies relating to such lands, as shall be claimed by two or more persons, under grants of different states.”⁴ [Childs, *Debates*, 139–40]

[See Convention Debates and Proceedings, 7 July (below) for Resolutions 8 and 9.]

* * * * *

SAMUEL JONES. The Judicial

1 Does not define the Cases to which

2d. Ought not to make the Genl. Govt. creat[e] an infinite number of Courts

To carry into Effect all the Judicial Powers, they must have Courts in the respective Counties in every State

If they Commission the State Courts many Inconveniencies

There will be a clashing of Jurisdict.

Many Cases it will be difficult to designate

Instances—Naturalization Laws—Bankrupt Laws—

It cannot be determined to which

It may be said An Appeal will Lie

That is only to be argued from Induction

In a Trial for Real Property part of the Controversy at least may depend on naturalization

3d. The Supreme Court has original Jurisdiction—and no appeal—or Court to Correct Errors—

The Institution of New Courts should be erected with Caution

Ld. Cook—New Courts tend to the Great oppression of the People⁵

But few such Courts in any part of the world—wherever they are they have done evil—

There should be somewhere a power of Reconsideratn—

The Star Chamber in England the most [like] this Court of any I recollect—They were great Men many Good Men—

The oppression became so great the Parliamt. abolished⁶

Had the Court been kept within due Bounds

Another Matter of great Importance

The Genl Govt. & State Govts. make one compleat Govt.—They should therefore be kept so as to harmonise and prevent Clashing of Jurisdictions

All men love power—

All Men at least have a wish to extend that power

Without restrictions there would be a Contest for Power—and the Great National Court must Swallow the others—

Great National Matters may be determined before them—There will be no Controul—They will be even Superior to the Legislature—

In England the Best of Jurisdiction Judicial

There in all Common Law Court[s] the House of Lords the dernier Resort—In Civil Law Courts Commissions Issue to review their proceedings—This succeeds well in other Countries—

In Wales the Courts retain original Jurisdiction with an appeal or writ of Error to the Courts at Westminster which have appellate Jurisdiction—

Mr. Jones moved

It is admitted Congress must have power to establish Inferior Courts—without that power—

The Courts excepted are such as the Genl Govt. must have

It is a Matter of Importance that the Judges of the Sup: Court should be as unbiased in office as possible as well as independent—

I therefore move for the followg Resolut to be added to the two former

“Resolved as the opinion of this Comee. that no Judge of the Sup. Court of the United States shall during his continuance in Office hold any other office under the United States or any of them”

Article 3d. Section 2d.

Between a State and Citizens of another State—

In all Criminal prosecutions a State is a Party—many difficulties might arise—many Criminals are really Citizens of other States—And if not they may so plead—

A State must at least have some portion of Sover[e]ign Power—And therefore should never be made a defendt. to a Citizen or Citizens—

To Citizens of different States—

“to Citizens of the same State claiming Lands under Grants from different States”—If they are Citizens of different

Why should Citizens of different States or foreigners in any Contracts be entitled to any measure of Justice different from the Citizens of the State where the Contract is made

In England or in France

Why should a person residing in Connect. or N Jersey who holds Lands in this State have any other Measure of Justice or Trial of Title different from the Citizens of the State—

If every Man is entitled to bring a Suit in the state Sup. Court because he lives in another State it is easy to See that every Suit for Land may [McKesson’s Notes, NHi]



JONES says this Article exceptionable in various Instances—does not sufficiently define the Cases to wh. it applies—makes it necessary to institute a Number of Courts—will be dangerous or expensive—may

be necessary to have Courts in every County with all their Officers—tho' they may commission the State Courts but this very inconvenient—Jurisdictions may clash—hard to say to what Courts Cases belong—Bankruptcies & Naturalization may come in Question & this not known till the Cause comes to Trial—does not say this may not be collaterally tried in the State Courts. but this is only to be derived from Induction—Want of a Court of Errors for the Supreme Court—*New Courts* generally tend to the Oppression of the People—*Ld. Coke's* opinion—necessary to have a Court of Appeal—No Court so like the present Supreme Court as the Star Chamber, composed of privy Counsellors & other great Men—& if an Appeal had lain might have been beneficial—Two Govts. should be made to harmonize with & support each other—therefore Jurisdiction in the first Instance should be committed to the State Courts—Continual Squabbles otherwise until one Court swallows the other—the genl. Courts will probably swallow the State Courts—does not suppose the Supreme Court will be corrupt—wishes to see it independent, but not of the Legislature—Commission of Review—Case of Wales—

proposes Amendment.

Intermediate Courts of Appeal necessary.

Jones—Doubts may arise as to the Expression *appellate Jurisdiction* both as to Law & Fact—Appeals *in this State* from Courts of Common Law to be by Writ of *Error*—

Mr. Jones—Judges of the Supreme Court not to hold any Office under the United States or any of them—

Sect. 2d.—

Cases where a State is a Party not to extend to criminal Causes—
No Suit to be brought against any State

Controversies about *Lands* between Citizens of the same State—
between Citizens of different States & ~~Foreigners~~ &c. as to *Lands*—

It was attempted to make this Constitution too perfect—from a View of particular Inconveniencies— [Richard Harison, Notes, DLC]

* * * * *

MELANCTON SMITH. As the Clause now Stands—All Causes goes to the Judiciary of the united States—

The Laws of the Genl. Govt. are to controul the Laws

The Causes arising on the Laws of the Genl Govt. must go to the Genl State

The Judicial Power shall extend to all Cases in Law and Equity

How far will this Extend—

It has been contended that in matter of Taxes the State and Genl Govt. have con[current] Jurisdiction—

It has also been Contended

This Clause extends power to many Causes and [things?] not of a national Concern—

Some Gent say that the Courts will have concurr. Jurisdict—others

If all Cases

In State Courts all Causes facts to be tried by a Jury—

The Genl Govt. having this Power may Institute a Trial by Jury or they may not—

Why remove the Trial of Causes between foreigners from the State Courts

In All Appeals to the Genl. Sup. The Appeal is both as to Law & fact—If there should be any Cases of a Criminal Nature (except those excepted) The Appeal is to be on Law and fact—

Will there be a Trial by Jury on the appeal

If a Man has been tried

In a Civil Cause the Court must have Jurisdict of the Law & fact

Can they refer the fact to a Jury—

Objection farther In a Criminal Suit the Def[endan]t is to be tried in the State but no provision to be tried in the Vicinage—

Further—The States will be Subject to the Suits of Individuals—This inconsistent with Sover[e]ignty—

What is the meang of

if it does not authorize A State to sue Individuals and Individuals to Sue and recover Judgmts. agt. a State—If they have this Power given they must have Power to ordain the Means of bringing a State to answer and to give Judgmt. and Compel Execution—

I wish these things explained that my Errors may be corrected if not well founded— [McKesson's Notes, NHi]



SMITH. Questions arising upon the Constitution go to the Genl. Judiciary—the Laws of the Union are generally to controul.—does not understand how Cases in Equity can arise [under?] the Constitution—Cases must be decided [by the?] Supreme Court as to Taxes, & they will be biassed as to in Favor of the Power from wh. they themselves are derived—. So as to Cases between Citizens of different States—it must be determined in the Sup Court whether there is a concurrent Jurisdiction—No express Provision as to Trial by Jury, but it is left to the Discretion of Congress—Why Disputes between Citz. of different States and Foreigners shd. go to the fed. Courts he is at a Loss to know—No Objectn. to the due Admn. of Just. hitherto—Appeals may lie in criminal Cases from the Trial of a Jury both as to Law and Fact—

only Security is Trial by Jury & in the State, not secured that he shall be tried in the Vicinage—nor that he shall be indicted—States may be sued also as private Persons.—Is not certain he is right, but until convinced can never agree to the Clause— [Richard Harison, Notes, DLC]

1. McKesson did not include Smith's motion here but it appears in McKesson's "Smooth Copy" of portions of the Convention Proceedings. There McKesson attributes the proviso to Gilbert Livingston (Mfm:N.Y.).

2. On 9 July the *Daily Advertiser* reported that a 5 July letter from Poughkeepsie noted that while debating Article III of the Constitution, "Mr. Jones was very industrious in pointing out the DEFECTS of that part of the system" (VI, below). For Jones's lengthy speech, see John McKesson's notes for this day.

3. This amendment is repeated as "Res. 7."

4. This amendment is a repetition of "Res. 3."

5. The reference is to Sir Edward Coke (1552–1634).

6. The Court of Star Chamber evolved in 15th century England from the judicial sittings of the King's Council at Westminster. It began as a court of equity and prerogative, but extended its jurisdiction, particularly under the Tudors, to criminal matters. Under James I and Charles I, the Star Chamber became tyrannical and arbitrary, and the Long Parliament abolished it in 1641.

Newspaper Report of Convention Debates, 5 July 1788

*New York Journal, 10 July 1788*¹

We are further informed from Poughkeepsie, that the honorable convention entered upon the *judiciary* department, which is contained in the third article of the constitution, on Friday last, and that amendments were proposed. It is thought that the business of the convention will be completed in a few days.²

1. Reprinted: Philadelphia *Independent Gazetteer*, 14 July; *Pennsylvania Journal*, 16 July; *Massachusetts Spy*, 17 July; Richmond *Virginia Gazette and Weekly Advertiser*, 24 July.

2. This item was one of several items printed, between 7 and 14 July, in the newspapers of Albany, New York, and Poughkeepsie, stating that the business of the Convention was coming to an end and that tempers had cooled somewhat. Some letter writers made the same prediction and observation. See VI, below, *passim*.

Private Commentary on the Convention, 5 July 1788

Abraham Bancker to Evert Bancker

*Poughkeepsie, 5 July 1788 (excerpt)*¹

... We Spent the greater part of Yesterday in Conviviality and Good fellowship, in honor to the day; which, I assure you was celebrated, by all parties, with Harmony and decorum²—

All I can write you at present is that we are making a Slow Progress in our Business. that we have entered on that part of the Constitution, which relates to the judiciary Powers. that a Number of Amendments

on this Head, have been submitted to the consideration of the Committee; neither of which, as well as with respect to many on foregoing Clauses, have been debated upon hitherto In Short, the Gentlemen on the federal Side, immediately on receiving a certain Account of the Adoption of the Constitution by the Convention of Virginia, have changed their System of proceeding; whereby it appears manifest, No Reply will be made to any of their propositions, untill after the whole of their Objections Shall be Stated. I Suppose this will be the Situation of the Business on Tuesday Evening [8 July]—

What is after all, to be done with all their Amendments, it is difficult to determine. I presume, Some of them will be *conditional* Some *explanatory* and some *recommendatory*.³ From present Appearances, I am led to conclude a Rejection will take place, or what will be considered as *tantamount* to it. How long We are to be detained here is uncertain. We are at the pleasure of the Majority, who can, it is true, determine with respect to the Constitution as they See fit; but can not control the Judgment, or influence the Conduct of those otherwise in Sentiment, while liberty is unrestrained. . . .

1. RC, Bancker Papers, NHi. This letter—addressed to Evert Bancker, Wall Street, New York City—was docketed as received on 7 July and answered on 11 July (Mfm:N.Y.). The letter was “Honored by/Col. Troup.” Robert Troup, a New York City lawyer, was a member of the state Assembly, 1786.

2. For the Fourth of July celebration in Poughkeepsie, see John Jay to Sarah Jay, 4 July, RCS:N.Y., 2098–99, and RCS:N.Y., 1290–92.

3. On 10 July John Lansing, Jr., presented a plan of amendments (a compromise among Antifederalists) that called for the three kinds of amendments to which Bancker alluded. (See RCS:N.Y., 2119–27.)

The New York Convention Monday 7 July 1788

Convention Debates and Proceedings, 7 July 1788

CONVENTION PROCEEDINGS. [Samuel Jones proposed the following amendments.]

Res. 8. “Resolved, as the opinion of this committee, that persons aggrieved by any judgment, sentence or decree of the supreme court of the United States, with such exceptions, and under such regulations, as the Congress shall make concerning the same, ought, upon application, to have a commission, to be issued by the president of the United States, to such learned men, as he shall nominate, and by and

with the advice and consent of the senate appoint, not less than seven, authorising such commissioners, or any seven or more of them, to correct the errors in such judgment, or to review such sentence, and decree as the case may be, and to do justice to the parties in the premises.”

Resolve 9. “Resolved, as the opinion of this committee, that the jurisdiction of the supreme court of the United States, or of any other court to be instituted by the Congress, ought not, in any case, to be increased, enlarged, or extended by any fiction, collusion, or mere suggestion.”¹ [Childs, *Debates*, 140]

Art. 3d. § 2d.

SAMUEL JONES. I mentioned On Saturday last [5 July] my Objection that there was not any Power or mode provided to redress the Errors of the Sup. Court—

Resolution to grant Remedy as far as it appears to me to be remedial under such a Government—

Mr. Jones—It has been the practice of the Superior Courts in most Countries to encrease their Jurisdictions by fictions or Suggestions—In some Countries perhaps to advantage

In this Country to preserve the Jurisdict of the State Courts and prevent Encroachments I propose the following Resolution vizt

“Resolved as the opinion of this Committee that the Jurisdiction of the Supreme Court of the united States, or of any other Court to be instituted by the Congress, ought not in any Case to be encreased enlarged or extended by any fiction Collusion or mere Suggestion”— [McKesson’s Notes, NHi]



JONES. Objected to the original Jurisdiction of the Supreme Court, that it is without Appeal.—He does not mean to suppose or imply Corruption, but the Judges may be weak or ignorant—therefore proposes Commission of Review—the very Knowledge of which will make the Judges cautious—this alone would be a sufficient Reason for him to bring forward this Proposition—

To prevent Jurisdictions being extended by Fiction—moves a Resolution to prevent the same being extended by Fiction or Collusion— [Richard Harison, Notes, DLC]

CONVENTION PROCEEDINGS.

Article IV.—

passed without any Amendments being proposed—

Article V.—Do.

Article VI.—

[Richard Harison, Notes, DLC]

CONVENTION PROCEEDINGS. The secretary continued reading the fourth and fifth articles, without interruption.—To the second clause of article sixth,² Mr. *Lansing* proposed the following amendment.—

“Resolved, as the opinion of this committee, that no treaty ought to operate so as to alter the constitution of any state; nor ought any commercial treaty to operate so as to abrogate any law of the United States.” [Childs, *Debates*, 140]

* * * * *

Article 6th paragraph [2]—

JOHN LANSING, JR. The Laws of the United States and Treaties made the Supreme Law of the Land

If the Law of the United States and a Treaty should contravene or oppose each other—which will be Supreme—

The President and Senate alone make Treaties—If they should make a Treaty that would abrogate or destroy

For remedy I propose the following Resolution vizt.

Resolved as the opinion of this Committee [McKesson’s Notes, NHi]

LANSING. with Respect to Treaties—

Amendt. Resolved as the Opinion of the Committee that no Treaty should operate to abrogate the Constitution of any State, nor to abrogate any Law of the Union. [Richard Harison, Notes, DLC]

* * * * *

CONVENTION PROCEEDINGS. To the third clause of article sixth, Mr. *M. Smith* moved the following addition.—

“Resolved, as the opinion of this committee, that all the officers of the United States ought to be bound by oath or affirmation, not to infringe the constitution or rights of the respective states.” [Childs, *Debates*, 140]

CONVENTION PROCEEDINGS. Arti 6 paragraph 3d.

Mr Smith Resolved as the opinion of this Committee that all the Officers of the united States ought to be bound by Oath or affirmation not to infringe the Constitution or Rights of the respective States— [McKesson’s Notes, NHi]

* * * * *

Article 7th. Read—

MELANCTON SMITH. I consider this as a notorious breach of faith By the Confederation the States Solemnly [pledged] their faith to abide by that Confederation unless amended as therein provided³— Here the Convention have recommended An Article which will be founded in a Breach of Faith— [McKesson's Notes, NHi]

—◆—
Article VII.

SMITH. Considers this Article as a notorious Breach of Faith, and of the Confederation—it may be a Precedent for future Breaches of Faith when a Majority of the States shall think proper— [Richard Harison, Notes, DLC]

* * * * *

CONVENTION PROCEEDINGS. Relative to the right of declaring war.⁴
“Resolved, as the opinion of this committee, that the Congress ought not to have the power or right to declare war, without the concurrence of two thirds of the members of each house.” Moved by Mr. *Tredwell*. [Childs, *Debates*, 137]

* * * * *

THOMAS TREDWELL. two thirds of Congress to declare War— [Richard Harison, Notes, DLC]

* * * * *

CONVENTION PROCEEDINGS. After the constitution had been gone thro', Mr. *M. Smith* moved for the following amendment to clause 17, of sec. 8, art. 1.

“Resolved, as the opinion of this committee, that the right of the Congress to exercise exclusive legislation 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, shall not be so exercised as to exempt the inhabitants of such district from paying the same taxes, duties, imposts and excises, as shall be imposed on the other inhabitants of the state where such district may be, nor shall it be so exercised as to prevent the laws of the state and all process under those laws from extending to such district, in all cases of crimes committed without the district, or in cases of contracts made between persons residing within such district, and persons residing without it. Nor shall it be so exercised as to authorize any inhabitant of the said district to bring any suit in any court, which may be established by the Congress within the same, against any citizen or person, not an inhabitant of the said district. And it is understood that the stipulations in this constitution, respecting all essential rights,

shall extend as well to this district, as to the United States in general. Resolved further, as the opinion of this committee, that the right of exclusive legislation with respect to such place as may be purchased for the erection of forts, magazines, arsenals, and dock-yards and other needful buildings, shall not be construed to authorize the Congress to make any law to prevent the laws of the states in which they may lie, from extending to such places in all civil and criminal matters, except as to such persons, as shall be in the service of the United States, nor to them with respect to crimes committed without such places. [Childs, *Debates*, 140–41]

* * * * *

MELANCTON SMITH. As to the 10 Mile Square Art 1st. Sect 8. parag. 17th.

My Idea is that the Article should be struck out—

A Legislature in electing which they have no agency will represent them and make Laws to bind them—

Congress may exempt them from Taxation—May exempt them from answering in Courts out of their Jurisdiction—And that even for Crimes. [McKesson's Notes, NHi]⁵

—◆—

SMITH. thinks this Clause should be struck out—

moves not to exempt from Taxes. [Richard Harison, Notes, DLC]

* * * * *

CONVENTION PROCEEDINGS. To clause respecting the power of regulating commerce.

“Resolved, as the opinion of this committee, that nothing in the said constitution contained, shall be construed, to authorise Congress to grant monopolies, or erect any company with exclusive advantages of commerce.” Moved by Mr. *M. Smith*. [Childs, *Debates*, 137]

* * * * *

MELANCTON SMITH. No Monopoly, or commercial Company to be erected— [Richard Harison, Notes, DLC]

* * * * *

CONVENTION PROCEEDINGS. Mr. *Lansing* then read, and presented to the committee, a bill of rights, to be prefixed to the constitution. [Childs, *Debates*, 141]⁶

—◆—

CONVENTION PROCEEDINGS.

Declaration of Rights

Mr. Lansing—to be inserted into the Ratification— [Richard Harison, Notes, DLC]

CONVENTION PROCEEDINGS. July 7th. Mr. Lansing—Bill Declaration of Rights intended to be inserted in the Ratification of the new Constitution—

That all Freemen have essential Rights of which they cannot by any Compact deprive or divest their posterity among which are the Enjoyment of Life and Liberty.

That all power is originally vested in and consequently derived from the people & that Government is instituted for their common Benefit protection and Security.

That in all Cases in which a Man may be subjected to a capital or infamous punishment no one ought to be put to his Trial unless on an Indictment by a grand Jury & that in all capital or criminal prosecutions the accused hath a Right to demand the Cause and Nature of his Accusation—to be confronted with his Accusers and Witnesses—to produce Testimony and have Council in his Defence & to a fair public and speedy Trial by an impartial Jury of the County in which the Crime was committed without whose unanimous Consent he ought not to be found guilty (except in the Government of the Land and naval Forces in Time of actual war Invasion or Rebellion) nor ought he to be compelled to give Evidence against himself.

That no Freeman ought to be taken imprisoned or deseised of his Freehold or be exiled or deprived of his priviledges, Franchises Life, Liberty or property but by the Law of the Land.

That no person ought to be put in Jeopardy of Life or Limb or otherwise punished twice for one & the same offence unless upon Impeachment

That every Freeman restrained in his Liberty is entitled to an Enquiry into the Lawfulness of such Restraint without Denial or Delay & to a Removal thereof if unlawful.

That in all Controversies respecting property and in all Suits between Man & Man the antient Trial of Facts by Jury is one of the greatest Securities of the Rights of a free people and ought to remain sacred & inviolate for ever.

That excessive Bail ought not to be required nor excessive Fines imposed nor cruel or unusual punishments inflicted.

That every Freeman has a Right to be secure from all unreasonable Searches & Seizures of his person, his papers & his property and that therefore all Warrants to search suspected places or to seize any Freeman his papers or property without Information upon Oath (or Affirmation of a person religiously scrupulous of taking an Oath) of 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 & oppressive & ought not to be granted.

That the people have a Right peaceably to assemble together to consult for their common Good or to instruct their Representatives and that every Freeman has a Right to petition or apply to the Legislature for Redress of Grievances.

That the Freedom of the press ought not to be violated or restrained.

That the Militia should always be kept well organized armed & disciplined & include according to past usages of the States all the Men capable of bearing Arms and that no Regulations tending to render the general Militia useless & defenceless by establishing select Corps of Militia or distinct Bodies of Military Men not having permanent Interests & Attachments to the Community ought to be made & that the Militia ought not to be subject to Martial Law except in Time of War Invasion or Rebellion & that in All Cases the Military should be under strict Subordination to & governed by the civil power.

That no Soldier in Time of peace ought to be quartered in any House without the Consent of the owner & in Time of War only by the civil Magistrate in such Manner as the Laws may direct.

That any person religiously scrupulous of bearing Arms ought to be exempted therefrom upon payment of an Equivalent.

That the free and peaceable Exercise and Enjoyment of religious profession & Worship is a natural & unalienable Right & ought never to be abridged or violated.⁷ [McKesson Papers, NH]⁸

* * * * *

GEORGE CLINTON. Many Amendments merely declaratory, others of a different Nature, wishes them to be arranged & the Matters offered in Support of the Clauses considered—to give Time for these Purposes, moves that the Committee rise— [Richard Harison, Notes, DLC]

1. Childs, *Debates* has these two amendments under 5 July (above). McKesson's "Smooth Copy" and his Notes place them correctly under 7 July.

2. Supremacy clause of the Constitution.

3. Smith and his fellow Antifederalists objected to Article VII of the Constitution because it provided that the Constitution would be adopted once nine states approved it in specially elected ratifying conventions. Article XIII of the Articles of Confederation required that amendments to the Articles be approved by Congress and ratified by the legislatures of every state. The proposed Constitution mentioned nothing about congressional approbation.

4. Tredwell's resolution amends Article I, section 8, clause 11, that reads "To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water."

5. For an earlier statement by Smith on this clause, see Convention *Debates*, 3 July (RCS:N.Y., 2089).

6. Childs did not print Lansing's Declaration of Rights in his pamphlet version of the Convention debates, although he did publish it in his *Daily Advertiser* on 11 July (Mfm:N.Y.). In New York, this Declaration of Rights was reprinted in the *Impartial Gazetteer*, *New York Journal*, and *Independent Journal*, 12 July (the *Independent Journal* omits the last two paragraphs); *New York Journal*, 17 July; and *Albany Journal*, 21 July. Outside New York, it was reprinted in eight newspapers by 31 July: Mass. (1), R.I. (1), Pa. (3), Md. (1), Va. (1), S.C. (1).

7. On 8 July Abraham B. Bancker, one of the two Convention secretaries, wrote Peter Van Gaasbeek, that "the Amendments to the Constitution are gone through together with a Declaration of Rights brought in by Mr. Lansing—all which are now putting in their proper Order, and the Convention are Adjourned until 12 oClock Tomorrow then to Meet to proceed in the important Business concerning the Constitution" (VI, below).

8. This manuscript is in Lansing's hand. Another copy of this Declaration of Rights is in the "Smooth Copy" in the McKesson Papers at the New-York Historical Society. The declaration is not printed in the *Convention Journal* either under 7 July or as part of the 25 July committee of the whole report. For newspaper printings and reprintings of the declaration, see note 6 (above).

Newspaper Reports of Convention Debates, 7 July 1788

New York Daily Advertiser, 10 July 1788¹

We learn from Poughkeepsie, that on Monday morning the Convention had got through the Constitution by paragraphs, and were proposing several amendments as they went along.—That after they had thus got thro' it, Mr. Lansing rose and submitted a Declaration of Rights, which he said was intended to be inserted in the ratification.

*(This Declaration will be given to-morrow.)*²

On motion of the Governor, the Convention then adjourned till the next day, 11 o'clock, in order to give time to the gentlemen who have proposed amendments, to arrange and bring them properly before the Convention.

1. In New York, this item was reprinted in the *Independent Journal*, 26 July, while the first paragraph only was reprinted in the *New York Journal*, 11 July, and *Impartial Gazetteer*, 12 July. The *New York Journal* also printed a variation of the last paragraph. Outside New York, the item was reprinted in whole or in part in nine newspapers by 24 July: Conn. (1), Pa. (4), Md. (2), Va. (2). All nine newspapers reprinted the first paragraph.

2. See Mfm:N.Y. for the *Daily Advertiser's* 11 July printing of Lansing's proposed declaration of rights.

Antifederalist Caucusing and Joint Committee, 7–12 July 1788

New York Daily Advertiser, 16 July 1788¹

By a Gentleman who arrived here on Monday last from Poughkeepsie, we are informed, that the Antifederalists had met frequently in the course of the last week, and that in these meetings there was much

warm debate:—some were for rejecting the Constitution:—but the majority, more moderate, insisted on an adoption, with certain conditions; and this at length was agreed on, as the extreme point of concession. The plan was accordingly formed, and brought forward in Convention.

A motion was then made for an informal Committee to be chosen from both parties, in order to organize more completely the amendments, and to fix on some accommodating scheme for an adoption.

A Committee was accordingly appointed, and having met, instead of entering mutually on the business, the Antifederal budget was immediately produced and opened, and a complete plan of adoption was presented as a single proposition, for the assent of the Federalists, attended with a declaration that this was their ultimatum. No room then remained for any general reasonings, but the matter was reduced to a point, and the propositions were only to be assented to or disapproved. Mr. Jay, Judge Hobart and others, strongly opposed the measure; urged most forcibly that the proposition led to a virtual and total rejection of the Constitution; and declared they could not consult with them at all, if they insisted upon that point. Both parties were firm, and the Committee dissolved without coming to any agreement.

1. This item represents the first three paragraphs of a longer account that included reports of Convention proceedings for 11 and 12 July. (The reports for those two days are printed below under those days.) In New York, the item that appears here, was reprinted in the *New York Journal* and *New York Morning Post* on 17 July, and *Albany Journal* on 21 July. Outside New York, it was reprinted in nine newspapers by 31 July: Mass. (3), Pa. (2), Md. (2), Va. (2).

The *New York Journal's* reprinting was prefaced: “*The following history of the proceedings at Poughkeepsie, the last week (with some additions omitted as preposterous) is given by a gentleman who left that place on Monday last; extracted from yesterday's Daily Advertiser. Of the genuineness of the representation, the public will be better able to judge hereafter.*” The *New York Journal* slightly altered the first sentence, and its account was reprinted in the *Connecticut Courant*, 21 July; *Massachusetts Gazette*, 25 July; *Providence United States Chronicle*, 31 July; and Exeter, N.H., *Freeman's Oracle*, 2 August. The first paragraph only of the *New York Journal's* account was reprinted in the *Massachusetts Centinel*, 23 July; and *New Hampshire Gazette*, 24 July.

Private Commentaries on the Convention, 7 July 1788

John Jay to George Washington

Poughkeepsie, 4, 8 July 1788¹

I congratulate you my dear Sir! on the adoption of the constitution by Virginia. That Event has disappointed the Expectations of opposition here, which nevertheless continues pertinacious. The unanimity of the southern District, and their apparent Determination to continue under the wings of the union operates powerfully on the minds of the opposite Party. The constitution constantly gains advocates among the

People, and its Enemies in the Convention seem to be much embarrassed.

[8 July] we have gone thro' the Constitution in a Committee of the whole—we finished yesterday morning—The amendments proposed are numerous—how we are to consider them is yet a Question, wh. a Day or two more must answer. a Bill of Rights has been offered with a View as they say of having it incorporated in the *Ratification*—The Ground of *Rejection* therefore seems to be entirely deserted—we understand that a committee will this Day be appointed to arrange the amendments²—We learn from Albany that an affray happened there on the 4 Inst: between the two parties, in which near thirty were wounded, some few very dangerously.³

From what I have just heard the Party begins to divide in their opinions—some insist on *previous* conditional amendments—a greater number will be satisfied with *subsequent* conditional amendments, or in other words they are for ratifying the Constitution on Condition that certain amendments take place within a given Time—these circumstances afford Room for Hope⁴—

1. RC, Washington Papers, DLC.

2. See “Antifederalist Caucusing and Joint Committee,” 7–12 July (immediately above).

3. For this “affray” or “fracas,” see RCS:N.Y., 1264–75.

4. For an Antifederalist view of the division among Antifederalists over amendments, see Abraham G. Lansing to Abraham Yates, Jr., 9 July (RCS:N.Y., 1306–7).

Cornelius C. Schoonmaker to William Smith
*Poughkeepsie, 7 July 1788*¹

The Receipt of your's of the 12th. Ult:² favor'd by your Son³ is hereby Acknowledged, and Assure you that it affords me Singular pleasure to be informed of your Studious Attachment to preserve and Support the freedom and Independence of the United States, against every Attempt that may be made, either external or internal, to Wrest from the People any of those Valuable and inestimable Rights for which they have not long since so nobly contended against the innovations of the British Crown. The Convention of this State have this day concluded their deliberations on the Constitution proposed and the Amendments proposed thereto, by Paragraphs.—the next business will be to Arrange the proposed Amendments and to fix on such of them as are to be made conditional others explanitory, and some Recommendatory—this I fear will be a difficult matter—as the Supporters of this proposed plan of Despotism will Use every Effort in their power to divide the Opposition, who have hitherto been firmly United—I trust however

that notwithstanding all their power of Oratory and Deception, there are yet so many of the old Centinels on the Watch, who in the time when Your Acquaintance & mine was formed, Saved this Country from Despotism, will remain firm and United, that they even now will not only be the Means of saving the Liberties of the people of this state, but probably of the United States, with the aid and direction of an over Ruling Providence—my family is all Well, and shall write you more particular before I leave this,

1. RC, Museum, Manor of St. George, Mastic Beach, Brookhaven, N.Y.

2. Smith's letter has not been found, but on the same day he expressed his strong Antifederalist sentiments in a letter to Antifederalist leader Abraham Yates, Jr. (RCS:N.Y., 1150–51).

3. William Smith's son, John, was an Antifederalist delegate to the New York Convention from Suffolk County, who voted to ratify the Constitution.

Abraham B. Bancker to Evert Bancker
Poughkeepsie, 8 July 1788¹

My last was by Mr. Striker a young Student, to which I refer since which Couz. Abm. has wrote you on Saturday,² when I was about setting out on a Visit home.³ I returned here yesterday Morning when I left Arrietta some what easier but unable as yet to help herself out of the Bed, by reason of the Rhumatism in her left side—The Convention yesterday finished with proposing Amendments to the several Articles of the Constitution which was followed by a Declaration of Rights offered by Mr. Lansing, and this Morning I Expect they will proceed to consider them a second time and Debate fully upon them in Order for the Question Nothing very Material Offering worth Noticing at this time I shall Conclude with Abm. in our Joint Love to Papa Mama Chris. and his family and Asure you of my remaining with sincere regards—

1. RC, Bancker Papers, NHi. Endorsed as received on 14 July and answered on 24 July.

2. See Abraham Bancker to Evert Bancker, 5 July (RCS:N.Y., 2105–06).

3. Abraham B. Bancker lived in Kingston, Ulster County, about twenty miles from Poughkeepsie.

Alexander Hamilton to James Madison
Poughkeepsie, 8 July 1788¹

I felicitate you sincerely on the event in Virginia, but my satisfaction will be allayed, if I discover too much facility on the business of amendment-making. I fear the system will be wounded in some of its vital parts by too general a concurrence in some very injudicious recommendations—I allude more particularly to the power of taxation.

The more I consider *requisition* in any shape the more I am out of humour with it.

We yesterday *passed* through the constitution. To day some definitive proposition is to be brought forward; but what we are at a loss to judge. We have good reason to believe that our opponents are not agreed, and this affords some ground of hope. Different things are thought of—*Conditions precedent*, or previous amendments; *Conditions subsequent*, or the proposition of amendments upon condition, that if they are not adopted within a limited time, the state shall be at liberty to *withdraw* from the Union, and lastly *recommendatory amendments*. In either case *constructive declarations* will be carried as far as possible. We will go as far as we can in the latter without invalidating the act, and will concur in rational recommendations. The rest for our opponents.

We are informed, There has been a disturbance in the City of Albany on the 4th of July which has occasioned bloodshed—The antifœderalists were the aggressors & the Fœderalists the Victors. Thus stand our accounts at present. We trust however the matter has passed over & tranquillity been restored² Yrs Affectly

1. RC, Madison Papers, DLC.

2. For the “disturbance” or “fracas,” see RCS:N.Y., 1264–75.

The New York Convention Tuesday 8 July 1788

Convention Debates and Proceedings, 8 July 1788

CONVENTION PROCEEDINGS. Convention met, and adjourned, without doing business. [Childs, *Debates*, 141]

ROBERT YATES. That the Gentlemen who proposed the Amendments had not yet determined in what Shape they should be brought forward to the *House* whether as conditional, explanatory or recommendatory—that therefore they had Nothing at present to propose— [Richard Harison, Notes, DLC]



YATES. On Tuesday the Convention met, and after being informed by Judge Yates, that the gentlemen who were arranging the proposed

amendments, would not be ready to lay the same before the Convention till the next day, they adjourned till Wednesday, 12 o'clock. [*Daily Advertiser*, 10 July 1788]¹

1. Reprinted seven times by 24 July: Pa. (4), Md. (2), Va. (1).

The New York Convention Wednesday 9 July 1788

Convention Proceedings, 9 July 1788

Convention met, and adjourned. [Childs, *Debates*, 141]

—◆—

Met and adjourned [Richard Harison, Notes, DLC]

—◆—

Extract of a letter from Poughkeepsie, dated on the morning of the 11th. inst.

“On Wednesday the Convention did no other business than to meet and adjourn till the next day 12 o'clock, in order to give further time to the Anti-Federalists to arrange their plan for the amendments. . . .” [*Daily Advertiser*, 15 July 1788]¹

1. Reprinted in the *Independent Journal*, 16 July, and in seven newspapers outside New York by 25 July: N.H. (1), Mass. (1), Pa. (4), Md. (1). The rest of this extract of a letter is printed below under the Debates and Proceedings for 10 July.

The New York Convention Thursday 10 July 1788

Convention Debates and Proceedings, 10 July 1788

JOHN LANSING, JR., opened

The Amendments are arranged—Some Conditional—others are Explanatory and others Recommendatory—

The Declaration of Rights then read

Amendmts. explanatory read— [McKesson's Notes, NHi]

* * * * *

CONVENTION PROCEEDINGS. Mr. *Lansing* submitted a plan of amendments, on a new arrangement, and with material alterations.—They

were divided into three classes:—1st. Explanatory, 2d. Conditional, and 3d. Recommendatory. [Childs, *Debates*, 141]

* * * * *

JOHN LANSING, JR.: PLAN OF AMENDMENTS.¹ In Convention.

This Convention having deliberately and maturely examined and considered the proposed Constitution reported to Congress by the Convention of delegates from the United States of America submitted to this Convention by concurrent Resolutions of the Senate and Assembly of the State of New York passed at their last Session do in the Name & in Behalf of the people of the State of New York make known and declare—

⟨Resolved⟩

That all *Freemen* Men have essential Rights of which they cannot by Compact deprive or divest [their Posterity, among which are the?] Enjoyment of Life & Liberty & the pursuit of Happiness. ⟨19th agd⟩

That all power is originally vested in & consequently derived from the people & that Government is instituted for their common Benefit, protection & Security. ⟨agd⟩

That in all Cases in which a Man may be subjected to a capital or infamous punishment no one ought to be put to his Trial unless on an Indictment by a grand Jury & that in all capital or criminal prosecutions the accused hath a Right to demand the Cause & Nature of his Accusation; to be confronted with his Accusers and Witnesses to produce Testimony and have Council in his Defence and to a fair public & speedy Trial by an impartial Jury of the County in which the Crime was committed without whose unanimous Consent he ought not to be found guilty (except in the Government of the Land & Naval Forces) nor ought he to be compelled to give Evidence against himself. ⟨agd.⟩

That no Freeman ought to be taken imprisoned or dissiesed of his Freehold or be exiled or deprived of his privileges Franchises, Life, Liberty or property but by due ~~Course~~ Process of Law.² ⟨agd⟩

That no person ought to be put in Jeopardy of Life or Limb or otherwise punished twice for one & the same offence except in Cases of Impeachmt.³ ⟨agd⟩

That every Freeman restrained in his Liberty is entitled to an Enquiry into the Lawfulness of such Restraint without Denial or Delay and to a Removal there of if unlawful. ⟨agd⟩

That in all ~~Cases~~ Controversies respecting property and in all Suits between Man & Man the antient Trial of Facts by Jury is one of the greatest Securities of the Rights of a free people & ~~ought to remain sacred & inviolate forever.~~ ⟨agd⟩

That excessive Bail ought not to be ~~taken~~ required nor excessive punishments inflicted. ⟨agd⟩

That every Freeman has a Right to be secure from all *unreasonable* Searches & Seizures of his person his papers & his property without Information upon Oath or Affirmation of sufficient Cause & that all general warrants to search suspected places or to apprehend any suspected person without specially describing or naming the place or person are dangerous & oppressive & ought not to be granted.⁴ ⟨agd⟩

That the people have a Right peaceably to assemble together to consult for their common Good or to instruct their Representatives and that every Freeman has a Right to petition or apply to the Legislature for a Redress of Grievances. ⟨agd⟩

That the Freedom of the press ought not to be violated or restrained. ⟨agd⟩

That the Militia should always be kept well organized armed & disciplined and include, according to past usages of the States, all the Men capable of bearing Arms and ought not to be subject to martial Law (except in Time of War Invasion or Rebellion) and that in all Cases the Military should be under strict Subordination to the civil power. ⟨3. agd⟩

That standing Armies in Time of peace are dangerous to Liberty & ought not to be kept up but in Case of absolute Necessity. ⟨agd⟩

That no Soldier in Time of peace ought to be quartered in any House without the Consent of the owner & in Time of War only by the civil Magistrates in such Manner as the Law may direct. ⟨agd⟩

~~That any person religiously Scrupulous of bearing Arms ought to be exempted therefrom upon payment of an Equivalent.⁵~~

That the free and peaceable Exercise & enjoyment of religious profession & worship is a natural & unalienable Right & ought never to be abridged or violated. ⟨agd⟩

That Nothing in the said Constitution is to be construed to prevent the Legislature of any State to pass Laws at its Discretion from Time to Time to divide such State into ~~as many~~ convenient Districts and to apportion its Representatives to & among such Districts ~~as the State shall be entitled to elect Representatives for Congress nor to prevent such Legislatures from making~~ ⟨agd⟩

That the Legislatures of the respective States may make provision that the Electors in each District shall chuse a Citizen of the United States who shall have been an Inhabitant of the District for the Term of one Year immediately preceeding the Time of Election for one of the Representatives of such State.⁶ ⟨Agd.⟩

That no power is to be exercised by Congress but such as is expressly given by the said Constitution & that all other powers not expressly given are reserved to the respective States to be by them exercised. <agd>

That the prohibition in the said Constitution against passing ex post Facto Laws extends only to Laws concerning Crimes. <agd>

That all appeals from any Court proceeding according to the Course of the common Law are to be by Writ of Error & not otherwise.⁷ <4. agd>

That the Judicial power of the United States as to Controversies between Citizens of the same State claiming Lands under Grants of different States is not to be construed to extend to any other Controversies than those relating to such Lands as shall be claimed by two or more persons under Grants of different States <agd>

That Nothing in the said Constitution contained is to be construed to authorize any Suit to be brought against any State in any Manner whatever. <agd>

That the Judicial power of the United States in Cases in which a State shall be a party is not to be construed to extend to criminal prosecutions <agd>

That the Judicial power of the United States as to Controversies between Citizens of different States is not to be construed to extend to any Controversies relating to any real Estate not claimed under Grants of different States. <agdto be recommendatory>

That ~~Nothing in the said Constitution contained is to be construed~~ [---] [---] [---] [---] [---] as to erect any Company with exclusive Advantages of Commerce. <to be recommendatory>

That no Treaty is to be construed to operate so as to alter the Constitution of any State— <agd>

That the Jurisdiction of the Supreme Court of the United States or of any other Court to be instituted by the Congress is not in any Case to be increased enlarged or extended by any Fiction Collusion or mere Suggestion. <agd>

That the Clauses in the said Constitution which declare that the Congress shall not have or exercise certain powers ~~shall not~~ are not to be interpreted in any Manner whatsoever to extend the powers of the Congress but are to be construed either as Exceptions to the specified powers or as inserted for greatest Caution— <agd>

And the Convention do in the Name & Behalf of the people of the State of New York enjoin it upon their Representatives in Congress to exert all their Influence & use all reasonable Means to obtain a Ratification of the following Amendments to the said constitution in the

Manner prescribed therein & in all laws to be passed by Congress in the mean Time to conform to the Spirit of the said Amendments as far as the Constitution will admit. ⟨7⟩

That the Militia of any State shall not be ~~continued in Service out~~ compelled to serve without the Limit of the State for a longer Term than six Weeks without the Consent of the Legislature thereof. ⟨agd. 26⟩

That the Congress do not impose any Excise on any Article except ardent Spirits of the Growth production or Manufacture of the United States or any of them. ⟨2 agd.⟩

That Congress do not lay direct Taxes but when the Monies arising from the Impost and Excise shall be insufficient for the public Exigencies nor then until Congress shall first have made a Requisition upon the States to assess levy & pay their respective proportions of such Requisition agreeably to the Census fixed in the said Constitution in such Way and Manner as the Legislatures of the respective States shall judge best—in such Case if any State shall [neglect or refuse to pay its proportion?] pursuant to such Requisition the Congress may assess & levy such Sta[te's?] proportion together with Interest at the Rate of six per Centum per Annum from the Time of payment prescribed in such Requisition. ⟨3. agd.⟩

That Congress shall not be ~~authorized to~~ make or alter any Regulation in any State respecting the Times places and Manner of holding Elections for Senators or Representatives unless the Legislature of such State shall neglect or refuse to make Laws or Regulations for the purpose or from any Circumstance be incapable of making the same and that in those Cases such power shall only be exercised then only until the Legislature of such State shall make provision in the premisses ~~provided that Congress may not appoint an uniform time for the Election of Representatives~~ provided that Nothing in this Article shall prevent Congress ~~from~~ may prescribe the Time for the Election of Representatives. ⟨agreed unanimously— 4.⟩

That no standing Army or regular Troops shall be raised or kept up in Time of peace without the Consent of two thirds of the Members of each House Senators & Representatives present in each House. ⟨agd.5⟩

That there shall be ~~one Representative for every thirty thousand Inhabitants according to the Enumeration or Census mentioned in the Constitution until the whole Number of Representatives amounts to two hundred: after which that Number shall be continued or increased as Congress shall direct upon the principles fixed in the Constitution by apportioning the Representatives of each State to some greater~~

~~Number of people from Time to Time as Population encreases. (Here A. agd.)~~

That no person be eligible as a Senator for more than six Years in any Term of twelve Years—and that ~~it shall be in the power of the Legislatures of the respective States to~~ may recal their Senators or either of them & ~~to~~ elect others in their Stead to serve the Remainder of the Time for which the Senators so recalled were appointed. (14. agd.)

That no Senator or Representative shall during the Time for [which he was elected be appointed?] to any Office under the Authority of the United States. (15. agd)

That no Money be borrowed on the Credit of the United States without the Assent of two thirds of the ~~Members of each House present~~ Senators & Representatives present in each House. (agd. 6.)

~~That the Congress shall at no Time consent that any person holding any Office of Trust or profit in or under the United States shall accept of any Title of Nobility or any other Title or Office from any King prince or foreign State.~~

That the Words *without the Consent of the Congress* in the 7th Clause of the 9th Section of the 1st Article of the Constitution be expunged (agd. 27)

That no person shall be eligible to the Office of president of the United States a third Time. (Agd. 16.)

~~That the president of the United States shall never command the Army Militia or Navy of the United States in person without the Consent of the Congress~~

~~That the Executive shall not in person take the actual Command of an Army in the field without the previous desire of the Congress~~

~~That the president or person holding his place for the Time being~~

That the president or person exercising his powers for the Time being shall not command an Army in the Field in person without the previous Desire of the Congress. (Agd. 18)

That the Executive shall not grant pardons for Treason ~~without unless with the Consent of the Congress but that in Cases where persons are convicted of Treason he shall have Authority to~~ but may at his discretion grant Reprieves to persons convicted of Treason until their Cases can be laid before the Congress. (Agd. 9)

~~That the Congress appoint in such Manner as they may think proper a Council to advise the president in the Appointment of Officers—that the said Council shall not continue in Office for a longer Term than four Years—that they shall keep a Record of their proceedings & sign~~

~~the same and be impeachable for Mal-Conduct in Office—that the Councillors shall have a reasonable allowance for their Services fixed by standing Laws & that no Man shall be elected a Councillor who shall not have attained to the Age of thirty five Years & who is not either a natural born Citizen of the United States or has become a Citizen of one of them before the fourth Day of July in the Year one thousand seven hundred & seventy six. (Disagred)~~

That all Letters patent [commissions?] Pardons [writs?] and process shall run in the Name of *the people of the United States* and be tested in the Name of the president of the United States or person holding his place exercising his powers for the Time being or the first Judge of the Court out of which the same shall issue as the Case may be. (Agd. 19)

~~That no Judge of the Supreme Court of the United States shall during his Continuance in Office hold any other Office under the United States or any of them. (Agd. 24)~~

That all the Senators & Representatives & all executive and Judicial Officers of the United States shall be bound by Oath or Affirmation not to infringe or violate the Constitutions & or Rights of the respective States. (Agd. 28)

~~That the Congress ought shall not to have the power or Right to declare declare War without the Consent Concurrence of two thirds of the Members of both houses present Members of each house present Senators & Representatives present in each House. (Agd. 7.)~~

That the Right of the Congress to exercise exclusive Legislation over such District not exceeding ten Miles square as may by Cession of a particular State and the Acceptance of Congress become the Seat of the Government of the United States shall not be so exercised as to exempt the Inhabitants of such District from paying the like Taxes Imposts Duties and Excises as shall be imposed on the other Inhabitants of the State in which such District may be and that no person shall be privileged within the said District from Arrest for Crimes committed or Debts contracted out of the said District and that the Inhabitants of the said District shall be entitled to the like essential Rights with as the other Inhabitants of the United States in general. (Agd. 9.)

That the Right of exclusive Legislation with Respect to such places as may be purchased for the Erection of Forts, Magazines Arsenals Dock-Yards & other needful Buildings shall not be construed to authorize the Congress to make any Law to prevent [the Laws of the States respectively in which?] they may be from extending to [such?] places in all civil & criminal Matters except as to such persons as shall be in the Service of the United States, nor to them with respect to Crimes committed without such places. (Agd. 10.)

~~That an Account of the Receipts and Expenditures of public Money shall at least once in every Year be transmitted to the Executives of the several States to be laid before the Legislature thereof. (Disagreed)~~

That Congress shall not constitute ordain or establish any Tribunals or Inferior Courts with any other than appellate Jurisdiction except such as may be necessary for the Trial of Causes of Admiralty and Maritime Jurisdiction & for the Trial of piracies & Felonies committed on the high Seas & in all other Cases to which the Judicial power of the United States extends & in which the Supreme Court of the United States has not original Jurisdiction the Causes shall be heard tried and determined in some one of the State Courts with the Right of Appeal to the Supreme Court of the United States or other proper Tribunal to be established for that purpose by the Congress with such Exceptions & under such Regulations [as the?] Congress shall make. (Agd. 21.)

That persons aggrieved by any Judgment, Sentence or Decree of the Supreme Court of the United States in any Cause [in?] which that Court has original Jurisdiction with such Exceptions & under such Regulations as the Congress shall make concerning the same shall upon Application have a Commission to be issued by the president of the United States to such Men learned in the Law as he shall nominate and by & with the Advice and Consent of the Senate appoint not less than seven authorizing such Commissioners or any seven or more of them to correct the Errors in such Judgment [or to review such Sentence?] or Decree as the Case may be & to do Justice to the parties in the premisses. (Agd. 23)

~~That the Congress shall not have power to suspend the previledge~~ Previdlege of the Habeas Corpus shall not at any Time be suspended for a longer Term than [six?] Months or until twenty Days after the then next Meeting of the Congress. (Agd. 8)

~~That the power to organize arm and discipline the Militia shall only extend so far as to prescribe the Mode of officering arming & disciplining them.~~

That the number of Representatives be fixed at the Rate of one for every thirty Thousand Inhabitants, to be ascertained on the Principles mentioned in the second Section of the first Article of the Constitution, until they amount to two hundred; after which to be apportioned among the States in proportion to the Number of Inhabitants of the States respectively—

That no Person be eligible as a Senator for more than Six years in any Term of Twelve years—That it shall be in the Power of the Legislatures of the Several States, to recall their Senators, or either of them,

and to elect others in their Stead, to Serve the remainder of the Time for which the Senators so recalled, were appointed. [McKesson Papers, NHi]

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JOHN LANSING, JR.: DRAFT OF CONDITIONAL AMENDMENTS.⁸ This Convention having maturely and deliberately examined & considered the proposed Constitution reported by the Convention of Delegates from the United States of America submitted to this Convention by concurrent Resolutions of the Senate and Assembly of the State of New York passed the thirty first day of January and first Day of February last past Do in the Name & in Behalf of the people of the State of New York declare (here Declaration of Rights & Explanations) and with a firm Reliance and on the express Condition that the Rights aforesaid will not & shall not be lost abridged or violated and that the said Constitution shall in the Cases above particularized receive the Constructions herein before expressed; with a solemn Appeal to the Searcher of Hearts for the purity of our Intentions & in the Confidence that whatever Imperfections may exist in the Constitution will as soon as possible be submitted to the Consideration of a general Convention [bottom of page torn] the said Delegates in the Name & in Behalf of the people of the State of New York do by these presents assent to & ratify the said Constitution (a Copy whereof is hereunto annexed) Upon Condition nevertheless that until the Amendments herein contained & herewith recommended shall have been submitted to and determined upon by a general Convention to be called in the Mode prescribed by the said Constitution the Militia of this State shall not be continued in Service out of this State for a longer Term than six Weeks without the Consent of the Legislature thereof—that Congress shall not be authorized to make or alter any Regulation in this State respecting the Times places and Manner of holding Elections for Senators or Representatives unless the Legislature of this State shall neglect or refuse to make Laws or Regulations for the purpose or from any Circumstance be incapable of making the same & that in those Cases such power shall only be exercised until the Legislature of this State shall make provision in the premisses and that no Excise shall be imposed on any Article of the Growth or Manufactory of the United States or any of them within this State and that Congress do not lay direct Taxes within this State but when the Monies arising from the Impost & Excise shall be insufficient for the public Exigencies nor then until Congress shall first have made a Requisition upon the States to assess levy & pay their respective proportions of such Requisition agreeable to the Census fixed in the said Constitution in such Way and Manner as the Legislature of this State

shall judge best, but that in such Case, if the State shall neglect or refuse to pay its proportion pursuant to such Requisition then Congress may assess & levy this State's proportion together with Interest at the Rate of six per Centum per Annum from the Time at which the same was required to be paid. [McKesson Papers, NHi]

1. This item in the hand of John Lansing, Jr., is in the McKesson Papers at the New-York Historical Society. It is docketed "A." On the top of the first page are two lines: "July. 10th.—1st. Motion/July 19th. 88. 2d. Motion." Contemporary annotation throughout the document indicates whether the various provisions were agreed to, were to be moved, or were disagreed with. A number is sometimes given to indicate the order in which the provision was to appear in the final form of ratification. The annotation for each provision follows it in angle brackets. The last two paragraphs were added later by McKesson on a separate page.

John McKesson's working draft of the committee of the whole report reads: "That the said proposed Constitution of Government having been read, was considered and debated by Clauses, and afterwards sundry Amendments were proposed thereto from day to day until the 10th. day of July Instant, ~~on which day the several Amendments proposed with a form of a Ratification delivered by Mr. Lansing was read in the words following vizt.~~" Both the final version of the working draft and the printed committee of the whole report omits 10 July and continues with John Jay's motion of 11 July.

2. The original version reads "but by the Law of the Land." The original version was not crossed out but was replaced by the final version "due Course Process of Law."

3. The original version "unless upon Impeachment" was not crossed out but was replaced by the final version "except in Cases of Impeachment."

4. "See Virginia Plan" is in the margin—a reference to the recommendatory amendments proposed by the Virginia Convention.

5. This amendment was crossed out and the following note appears in the margin: "[— — —] here and to be Inserted in some other part."

6. In the margin opposite this paragraph are two notes: "Stands to be recommended" and "to be recommended."

7. In the margin opposite this paragraph appears the following: "in any Cause in which a Trial by Jury has been had," which is crossed out.

8. This item in the hand of John Lansing, Jr., is in the McKesson Papers at the New-York Historical Society and is docketed "Report of the Convention on the new Constitution." A smooth copy of just the amendments (beginning with "The Militia of this State") is also in the McKesson Papers.

Newspaper Reports of Convention Debates, 10 July 1788

*New York Daily Advertiser, 15 July 1788 (excerpt)*¹

Extract of a letter from Poughkeepsie, dated on the morning of the 11th. inst.

"... When the Convention met on Thursday, Mr. Lansing came forward with the amendments, arranged in three classes; *explanatory*, *CONDITIONAL*, and *recommendatory*. The Bill of Rights is among those that are explanatory. The following are *conditional*; 1st. That there shall be no *standing army* in time of peace, without the consent of two-thirds of Congress:—2d. That there shall be no *DIRECT TAXES*, nor *excises* on

American manufactures:—3d. That the militia shall not be ordered out of the state, except by the previous consent of the executive thereof; nor then for a longer time than six weeks, without the consent of the state legislature;—and 4th, that there shall be no interference in the elections, unless when a state shall neglect or refuse to provide for the same.

“In reading the amendments, Mr. Lansing observed, that they had not only been changed in form, but in substance. One of them has been changed indeed; it is Melancton Smith’s first amendment, and about which there was several day’s debate: the original amendment was for having the House of Representatives doubled in the first instance, and that it should encrease at the rate of one for every 20,000, till it got to 300. As it now stands, it is that there shall be a representative for every 30,000, till it get to 200; beyond which it may not go.²

“After the amendments were read, it was proposed by Mr. Lansing, that the Convention should adjourn, and that a committee of both parties should be informally appointed, who should endeavor to make such an accommodation, and so to arrange the amendments as to bring the business to a quick and friendly decision: accordingly the Convention adjourned.

“Mr. Jay, the Mayor of New-York, the Chief Justice, Judge Hobart, Judge Ryerss, Judge Lefferts and Mr. Hatfield, on the part of the Federalists; and Judge Yates, Mr. Lansing, Mr. M. Smith, Mr. Tredwell, Mr. Haring, Mr. Jones and Mr. G. Livingston, on the part of the Antifederalists, were the Committee appointed in consequence of Mr. Lansing’s motion.

“When the committee met, Mr. Jay declared that the word *conditional* should be erased before there could be any discussion on the merits of the amendment[s]; this occasioned about an hour’s debate, and the Anties determining not to give up that point, the committee was dissolved without effecting any thing. In this committee I am told that Mr. Jones and Mr. M. Smith, discovered a disposition somewhat moderate; the others it is said were quite violent.

“How the matter will now terminate, I know not. It is expected that something of importance will take place this forenoon, of which I shall give the earliest information.”

1. Reprinted in the *Independent Journal*, 16 July, and in whole or in part in seven newspapers outside New York by 25 July: N.H. (1), Mass. (1), Pa. (4), Md. (1). The first paragraph of this extract of a letter is printed under 9 July (above).

2. For Melancton Smith’s first amendment, see *Convention Debates*, 20 June, at note 18 (above); and “Newspaper Report of Amendments Proposed to the Constitution by Antifederalist Convention Delegates between 20 and 26 June,” (RCS:N.Y., 2028–31).

New York Journal, 17 July 1788¹

Our accounts, or rather history, of the Convention at Poughkeepsie, were continued last Thursday to Friday the 4th, from which to *Monday*, July 7, they went through the remaining articles of the Constitution.

As amendments to the general system had been proposed from time to time, in the course of the session, it now remained to have them arranged and stated, which occupied *Tuesday* and *Wednesday*.

On *Thursday* the Convention met, when Mr. Lansing came forward with the amendments arranged in three classes, viz. EXPLANATORY, CONDITIONAL and RECOMMENDATORY. A *bill of rights* was classed among the explanatory—the conditional were, *that there should be no standing army in time of peace without the consent of two-thirds of Congress*; that, *there shall be no direct taxes, nor excises, on American manufactures*:—that *the militia shall not be ordered out of the state, except by the previous consent of the executive thereof*; nor then for a longer time than six weeks without the consent of the state legislature,—and, that *there shall be no interference in the elections, unless when a state shall neglect or refuse to provide for the same*.

Mr. Lansing observed, after reading the amendments, that they had been altered both in form and substance, from the last report, particularly that respecting the apportionment of representation; it now stands—*that there shall be a representative for every 30,000, till it got to 200; beyond which it may not go*.²

Mr. Lansing proposed, that the Convention should adjourn, and that a committee of both parties should be informally appointed, who should endeavor to make such accommodation, and so to arrange the amendments as to bring the business to a quick and friendly decision; accordingly the Convention adjourned.

Mr. Jay, the Mayor of New-York,³ the Chief Justice,⁴ Judge Hobart, Judge Ryerss, Judge Lefferts and Mr. Hatfield, on the part of the federalists; and Judge Yates, Mr. Lansing, Mr. M. Smith, Mr. Tredwell, Mr. Haring, Mr. Jones, and Mr. G. Livingston, on the part of the anti-federalists, were the committee appointed in consequence of Mr. Lansing's motion.

When the committee met, Mr. Jay declared that the word *conditional* should be erased before there could be any discussion on the merits of the amendment[s];—this occasioned about an hour's debate, and the committee was dissolved without effecting any thing.

1. Reprinted: Boston *Independent Chronicle*, 24 July; *Massachusetts Gazette*, 25 July; Portland, Me., *Cumberland Gazette*, 31 July; Exeter, N.H., *Freeman's Oracle*, 2 August; *Gazette of the State of Georgia*, 7 August.

2. See *Daily Advertiser*, 15 July, at note 2, and note 2 (immediately above).

3. James Duane.
4. Richard Morris.

The New York Convention
Friday
11 July 1788

Convention Debates and Proceedings, 11 July 1788

CONVENTION PROCEEDINGS. Mr. Jay moved the following resolutions.¹—

“Resolved, as the opinion of this committee, that the constitution under consideration, ought to be ratified by this convention.

“Resolved further, as the opinion of this committee, that such parts of the said constitution as may be thought doubtful, ought to be explained, and that whatever amendments may be deemed useful, or expedient, ought to be recommended.”

Mr. *Jay* was supported by Mr. Chancellor Livingston, [and?] Mr. Chief Justice Morris, and opposed by Mr. *Melancton Smith*. [Childs, *Debates*, 141–42]

* * * * *

JOHN JAY. A proposition

That the Constitution should be so far ratified as to go into Operation except as to certain parts which should not operate until a Convention²

Not admissable

It called on Congress to admit this State into Congress upon Conditions not contained in that Constitution

Could this have been admitted

What Powers will this Congress have—

Can they change any Article of it—

Will the Constitution authorize Congress to alter or Change any part of it—

Have Congress any such Power

If not when are we—We must of Necessity remain out of the Union—

It said such will be the necessity of Union that Congress will Accept it and that it amounts to a ratification

Can an Agreemt. to a part amount to an Adoption of the whole

I wish some mode to be fallen on for the union of the whole

We must suspend our Assent until it can be shewn
 We are Sent here on a most important Occasion
 Our Constituents calmly to consider and wisely to decide on the
 proposition before us—

We Were sent here to serve general Purposes and promote public
 Good

We should reason together—let us reason first and decide afterwards
 This Constitution is the work of freemen who have given to world
 the Highest Evidence of Patriotism disinterestedness wisdom & great
 Abilities—

Therefore let us examine Cautiously before we reject

Consider farther—This Constitution taken into Considerat. by ten
 different Conventions chosen in 10 different States—

There have been great Men who have had Doubts

But here are eleven Verdicts in favour of it³—That it would be ex-
 pedient for this Country to adopt it—

If there be a Question of Right vs wrong and it be tried by 10
 with Respects to the Merits of this Constitution it has been fully dis-
 cuss[ed]

The Question reduced to this point—The Advantages in one Scale
 the Disadvantages in another—

I shall be able to say in the day of Judgmt. that I think it expedient
 for this

With respect to expediency as to our national Situat. they have been
 fully developed—

The insufficiency of our Confederat

If we change we shall exchange for the Better

This Constitution has been adopted by 10 States—It has grown too
 fast to be pulled up by the Roots—Can it be supposed a Convention
 will be called—Or that another Constitution will be obtained—

It will be answered we only hope for Amendmts.

Is there a single Condition which the Congress of the United States
 have Power to make—Will any man say Congress shall have power to
 alter a Constitution—

Then how are we to get Amendmts.

I say as other States—and it is reasonable we should get Amendments
 if they are necessary in the Same way—

That is in the way the Constitution has pointed out—

Are the other States less attentive to their Rights than we—Are they
 less wise to discover their Rights—have given less room for Confidence
 than we—No.

We are to consider this Country as one People divided

Should we not then let every thing be the result of joint Counsels and joint Deliberations

Then when should we dictate and insist that the other States should come down to our Terms—

If they had it, would they come down to it—

Would we not hereafter repent it—

Example the Septennial Parliam^d

Will not Rhode Island say she must have her Terms—

Let us Consider

We remain out of the Union—for you cannot wish that Congress should Trample

How long shall we then continue out of the Union—

Until the Amendments we wish for shall be made—

How long will be—perhaps two years—It must be near that Time—

Where shall we be in the Mean Time—

Standing upon our own Ground unconnected in Policy wth. our Neighbours—

Will that give no uneasiness—

With respect to the People of this State

Will your Govt. be respected your Magistrates be obeyed party heats Subside—

Heats are Abroad—Parties formed and forming—

some affraid of them others wishing for them

Is this desirous

Are all parts of the State happy and easy in their Situation—

Have not Some of your Laws given discontent—

Have the Burthens been equally laid

Their Apprehensions and their Fears rather than their hopes encrease

Yet those men warmly advocate this Constitution—

The men who have born the greatest Burthens most advocate this Constitution—

It would [be] most happy for this State to continue in union—

We have much to fear from the Passions of the People—

Is that part of the State surrounded with peacemaking mediatorial Neighbours—Will those Neighbours be interested

Other Considerations—

This Govt. will be organized and we have no hand [in] it—

Many important Laws will & must then be passed

They may affect our Rights and Interests

Our Explanatory Amendmts

Can we have any Representation there to state our explanatory Amendmts. and procure Laws for the purpose—

These are not threats—This is prudence—

Are there other Evil Consequences

Consider them

Is it [of] no Importance that Congress should sit in your State form Connections,

Is it of Importance that you have the Treasury of the united States

Is

The Sittings of Congress is worth 100,000 [dollars] a year

The sitting of Congress is worth much to a certain Branch of Commerce

All the Hard Money in the City of New York arise from the Sitting of Congress there—

If it is not [McKesson's Notes, NHi]



JAY. We were sent to promote genl. good—to forget we belong to party—

Reason first and then decide—

This const. the work of freemen, of patriots—it merits Candid attention.—though not to pin our faith—

Considn: This Consn. consid[ere]d by ten Conventions—The best men of every State—wise—objecti[on]s but 11 Verdicts in its favour—though not full evidence—yet strong circumsl. evidence of the expediency—for that reason we ought not to adopt it—

With respect to the merits of the Constn.—nothing new can be said—

The question reduced to a point—conveniency & inconveni[en]cy—Love Liberty—

It is expedient—

1. From our national situation, is now bad—shall we change for the worse—we shall exchange for the better.

2. This Const. has been adopted by 10 States has grown too far—they will not call a Convention to make another—

May say, we do not hope for a new one—but to amend this—if we are [to] amend either by conditions—or in the way pointed out by the Const—

Congress have no power to alter—not found in the Constn.—

We are to get amendts. the same way other States—this reasonl.

N. H. Mass. wish amendts—Penns. wish amends—Virga. S. Carol. North Carolina probably will have them⁵—

They will seek them in the way of the Const.—

Nothing to authorize the calling a Conventn—

No reason to presume other States less attentive than we—We are not warranted to be jealous—this country are one people—to all general purposes—therefore all determined by joint council—the majority must govern—why should we dictate—if Congress had such power would it be prudent to [---] the president—The septennial bill a party, whig measure—repented of—this measure may be dictated the same—Rhode Island may dictate—Congress cannot agree to it—we shall therefore be out until they accede to the amendts—by the mode proposed—how long will this be—perhaps 2 Years—sometime to organize—appoint Officers—

Where shall we be in the mean time—standing on our own ground—unconnected—Their views will be—what may be conceived—among yourselves, will your Laws be exec[ute]d—all party heats subside—This cannot be—prays it may be the case—but we must view consequences—parties are formed and forming—men extendg their views—projects—indivs. will rather promote dissent for their own views—Some parts of the State not contd—Some of our Laws give cause of discontent—have fears of an increase—These parts of the State are most in favour of Constn.—The two parties disagree respg. right & wrong, as well as the Constn—When men are governed by passion, reason not attended to—

these men, not surrounded by peace makers— on the contrary—

If we continue out, it [i.e., the new government] will be organized—and pass most import[ant] Laws—and we have no hand—we propose giving [construction?]—[- - -] [- - -] our weight—

Does not mean to alarm our fears—But we ought to be prudent—to weigh consequ—other evil consequences—

Of importance Congress should sit in the State—

of importance the Treasury of the US. should be in our Capital—all who receive spend—The officers of govt. spend their Money 100,000 Dollars a Year—

Much trade by Congress sitting—a hint suff—hard money owing to Congress sitting—feel much impressed—judgment—and attachment—inclines—

If Congress cant accede, all Conditions vain—trust the States, as they us—many have proposed amendts—we shall have them—all want amendments—

Many honestly object,—if he thinks they would not be obtained he would join—reasons good 6 Months ago not good now—10 States

agreed—a number brot. forward the same amds—many considerations of exp[e]d[ience] now exist that did not—

Departing fm their neighbours will war— [Melancton Smith, Notes, N]

* * * * *

RICHARD MORRIS. It is agreed a Genl. Govt. is necessary—And such as will be agreeable to A Majority of the rest of the States—

The Rights of the People will be safe as long [as] the State Legislatures are their Guardians—

Read the 5th. Article of the Constit[u]tion

Under this Article we can amend the Constitution to the end of the World—

The Question is shall we give our Voices to begin a Govt. so formed as that if other States will concur in it can be amended to the End of Time— [McKesson's Notes, NHi]

* * * * *

MELANCTON SMITH. I only rise to make a few Cursory Observations and then propose the Business in the way I suppose it should come before the House—

Why have we heard so much of Accommodation if nothing can be done but *Adopt* or *reject* the Constitution

Then explained the Propositions—

Their Reasoning goes only to Shew the evil Tendency of Rejecting the Constitution—

Then moved the Draft of a form of Ratification which he read⁶— [McKesson's Notes, NHi]



SMITH. Argts. go too far, to shew that the Convn. cannot explain, or add Recommendations as well as Conditions—Congress not to be prohibited from making Requisitions—Reasons of the Gentn. go to total Rejection, not to ~~condition~~ the Propositions of the ~~Genl~~ Majority.

Reads proposed Ratification Does not suppose that the Congress will probably exercise the Powers reserved by the intended Ratification—Will they excise our Home Manufactures when We have scarce any? or can the first Congress lay Taxes? Does not mean to dictate? On the Contrary only wishes the fair Consideration of the Subject by a Convention to be called by the other States— [Richard Harison, Notes, DLC]

* * * * *

JOHN JAY. Congress to be called in Virtue of the Constitution—

They can neither encrease [i.e., increase] nor diminish their Power—

How then can they suspend the operatn of these Articles untill a certain Contingency can happen—

How can Congress justify to lay Taxes on other States—and only make a requisition on this State—

Can Congress call out the Militia of other States for a longer Period, and ours for only Six Weeks or apply to the Legislature—

Ten States have Adopted this Constitution—Congress cannot receive or Govern us on any other Terms even for a Single Day or a Moment— [McKesson's Notes, NH]

* * * * *

MELANCTON SMITH. I understood the Gent. that where ever a Clause would rece[i]ve two Constructions they would agree to such explanatory Construction as this Convention should think proper—

Exam Taxations—Elections—calling a Convention—

We intended so to word those Restrictions so that Congress might Exercise those powers in a particular mode which they by the Constitution might otherwis ex[er]cise in various mode[s]—

That these Conditions only desire Congress to do in one way that which they had before a Right to do— [McKesson's Notes, NH]

* * * * *

JOHN JAY. You take away the discretion of Congress—They might ask for Militia or not ask—you say they shall ask—

Will the other States be content—

They will ask what right had you to make Exemptions—

Can We agree with Suffolk County that they shall [McKesson's Notes, NH]

* * * * *

MELANCTON SMITH. Cannot the Genl. Legislature by Law lay a Tax in this State in one manner and in Georgia in another—

Cannot the Genl. Govt. in any one of Instances agree for a Limited time to suspend the Exercise of certain Powers, if a way is proposed that the other Powers [McKesson's Notes, NH]

* * * * *

JOHN JAY. When a Contract is offered if doubtful Articles they may be explained. If the explanation is concurred in by Congress they are agreed—If Congress do not so understand it—then New York has not ratified it—

Gent. Says If we make a Contract we have a right to consider of it—

Who is the Contract with—with the People of the other States—

I Grant Congress can exercise the Power in that way if they Please—

I agree they may exercise it as they please—But can they tie up their Hands [McKesson's Notes, NHi]

GEORGE CLINTON. I suppose a more Liberal Construction may be given to Acts of a Governmt. when forming, than when it is formed— [McKesson's Notes, NHi]



CLINTON asks

Whence Congress gets Power to alter the original Confederation?— & to organize the present Govt.?—If this Question is answered, he will answer the Gentleman's Reasoning? [Richard Harison, Notes, DLC]

MELANCTON SMITH. We do not ask Congress to change this Constitution—We ask only that this proposition shall go to the People of America when it can be brought before them—

The Question before the different Conventions has been expedience—They have agreed on different Principles [McKesson's Notes, NHi]



SMITH. The Govt. has never been fairly before the People as to it's being good or bad—It has been generally adopted from Motives of Expedience— [Richard Harison, Notes, DLC]

JOHN JAY. It is new way of Answering difficult Questions to ask others—

Here are fish always swiming in Salt water yet how

If we ask Congress to do what they have no power to do they ought not to do it—and we shall not be without Blame—

If Congress has power it must be delegated to them—Shew me the Power that they can dispense with one Article for a Moment—

It is Sacred cannot be changed—Power was not born with Congress They must have got it by delegation— [McKesson's Notes, NHi]

JOHN LANSING, JR. The Convention only say That it be submitted to Conventions for their approbation⁷—

Congress had not the Power and did not prescribe a Rule of Conduct—

The only rule of Conduct is prescribed by the Concurrent Resolutions of the Senate and Assembly⁸—

It is submitted to the Consideration of the Delegates—&c

We therefore have Power to reject—to adopt—or to recommend—
Qu. Whence the Powers of Congress to organize this Govt.

Was the Power of the Genl. Convention binding on the People of
the States and on Congress—

If not they will [have] all the discretion [i.e., discretion] we contend
for

If they cannot use their discretion and have not Powers from the
People it will be a mere assumption of Power—

Arguments of Expedience have been highly coloured I shall con-
sider some of them to morrow tho most of them have been fully here-
tofore considered— [McKesson's Notes, NHi]



LANSING. 1 As to the Power of the present Convention

The Act of Convention is only to ratify that of Congress is only
transmissive—

Concurrent Resolutions

Power genl.

Has no Doubt upon that Subject—

2. As to the Power of Congress—query what Right had they to or-
ganize the new Govt.⁹—How can it be presumed from the Ratifications
that Congress has a Right to organize—It is an Assumption of Power?
[Richard Harison, Notes, DLC]

* * * * *

ROBERT R. LIVINGSTON. Every man knows that the States violated the
Confederation—It had long been broken as was not in Existence when
the Convention met at Philadelphia—We threw of[f] Great Britain be-
cause she had violated the Compact—Every man knows that every State
& even New York has violated the Compact—The Gent. [says] We have
a right to make our own Compact—This might be true if we acted with
the People—but this cannot be the Case with Congress who cannot
receive us—

Gent

If Congress have no power to receive us on other Terms All Condi-
tions are wrong—

The General Sense of all the States is to have Amendments—

Many Men of Virtue think amendmts. necessary

The door is open

Are Circumstances now and Six Months ago the Same—

Many Considerat. now exist which did not exist—

The Ground is changed—

Let us join with our Neighbours to obtain the same Ends in the same
Way—

Let us agree and be una[ni]mous—have no Ideas of Victory—We will have our Constitution you will have your Adments

Resolutions proposed

Mr Chancellor Livingston—

I have revolved Conditional Amendmts.

Addoption for a given Time

No Road open for us but a general Adoption—

I shall assign my Reasoning

1st What are our Powers—

If we exceed our Constn

To ratify or reject—

We have no Power to Amend—

What will our Constituents say—

If you assume a Right to make an alteratn in one part you may in the whole—you may make a new Constitution—

If I authorize my friend to buy a farm and he buy but half will the greater Power include the less—

Did the People intend we should Amend or frame a new Constitution—

Let those who think it necessary boldly come

Let us Consider the Powers which Congress have from the People.

1st. As to the present Congress—

2d As to the future Congress—

The present Congress merely Ministerial—can they say that we have acceded to this Govt. when we come forward with Amendmts. that Strike at the Powers of the new Govt.

Suppose that Congress had a wish to receive us—Consider their divided Interests—It is the Interest of the Small States to divide your State into Small States—will they then exceed their Powers to let us in—

The Jealo[u]sy of other States

Agents now at New York Soliciting Congress to remove to Philadelphia¹⁰

In all public Bodies Men Soliciting Honors & offices for themselves and for their States—

Will they then not keep us out

We must then be kept out of Representation until the next Congress—

Shall we give up our Share in the Organization of the Laws which in a great measure give a Tone to the Govermt.

Advantages to the State by the Residence of Congress great

Can we afford to drive 100,000 [dollars] out of the State—

The Eastern States and New York interest
 New Jersey
 The Southern States
 They wish the federal City far South—
 Eight States will be against removing them from Philadelphia
 They will remain until there is a Ballance of Southern States to draw them South

I shall now Consider Conditional Amendmts.

I shall consider myself a freeman

We united in our Secession from Britain carrying on a war and Contracting Debts—

We are one People—It has been admitted a majority must Govern—

Then why Conditional Amendmts. is not this force—Can we justify imposing Laws on the other 12 States

Shall we provoke a just God by such an Act of Injustice

Such it will be called by every honest Man

But if we set out with Injustice will it not carry with it its own Punishmt.—

Would not the Southern part of the State say you set out with an Act of Injustice—We have a right to Separate

Then Considered the Amendmts. of the Committee of yesterday—

These three Powers are great ones—

We are to have a Share of the Genl. Treasury—we are to have a Share of Excise if laid and necessary—And yet be subject to no excise &c—

Would not those States who wish for Amendments refuse to receive us—

The People of New England and other States a free People & pursue the Spirit of Liberty—

The Opinion of other States that New York is interested in her Politics—

Will not Congress feel her Pride hurt by these restrictions—Will their Resentmts. be raised—

From the present View of Congress, we have no reason to hope for a Convention—

There must be nine States to obtain a Convention—without we come in there will not be nine States—

Then can it be wise that we do adopt the Measure to obtain the Amendmts.

Every Man will believe if this Constitution is not adopted the State will be convulsed—

Then the paper of this State Sinks to nothing—
 Can we banish 100 000 [dollars] a year and destroy our paper circulatg medium¹¹—
 I dread to Mention perhaps the Southern part of the state may Separate—
 It is pain to me to mention it—but Truth must come out
 What will become [of] us in this Northern part of the State—
 Can we Support a Govt.
 Can we reduce them by Arms—
 Will not their Neighbours aid them—
 Will Vermont lay Still—Will Canada be Quiet—
 What may be the Effects—
 I know many Gentlemen sent here in a delicate Situation—
 Many Expected as only Six States had adopted that this State and others would reject and we should get a new Convention¹²—
 The Ground is changed—
 If The Responsibility must be from the Majority of the House—
 It is in Our Power to create una[ni]mity—Or to sow dissentions war and ruin—
 Ex gr. [i.e., e.g.] The late heat dissention & Bloodshed on a Holiday at Albany¹³—
 I feel myself attached to the Glorious Inhabitants of Montgomery
 Are they alone ready to resist the Power of the British or the Slaughter of the Savages—
 I could call on the Members of every County in the State—but to call for human Aid is Vain—I call for the Aid of that God of the Universe [McKesson's Notes, NHi]

1. The manuscript copy of John Jay's resolutions in the McKesson Papers, New-York Historical Society (Mfm:N.Y.), is in Alexander Hamilton's handwriting.

2. See the conditional amendments proposed by John Lansing, Jr. (Convention Debates, 10 July, above).

3. Ten of the eleven "Verdicts" were represented by the ten states that had ratified the Constitution. The eleventh verdict was the approval of the Constitution by the Constitutional Convention. See George Clinton's Remarks on the Mode of Ratifying the Constitution, 17 July (RCS:N.Y., 2223).

4. Following the election of 1715, the Whig party controlled the House of Commons. In 1716 Whigs in Parliament obtained passage of the Septennial Act in order to strengthen their tenure of power and to avoid the turmoil of another election so soon after the Jacobite uprising of 1715. The Septennial Act of 1716 stated Parliaments could last for as long as seven years, thereby overriding the Triennial Act of 1694. Instead of taking place in 1718, the next election would take place in 1722. Under the Septennial Act, the Parliament that passed the act also extended its own tenure by four years. Parliament's authority to pass the Septennial Act was not questioned, but many thought that it was unconstitutional for the sitting members of the House of Commons elected for

three years to extend their tenures to seven years. Critics of this political act were not able to shorten the tenure of Parliaments until 1911, when it was reduced to five years.

5. For the amendments recommended to be added to the Constitution by the conventions of Massachusetts, New Hampshire, South Carolina, and Virginia, see CC:508, 753, 785, 790. For the amendments recommended by the North Carolina Convention in August 1788, see CC:821. And for the interest in amendments in Pennsylvania, see especially CC:353, and DHFFE, I, 258–64 (Harrisburg Convention).

6. This draft of a form of ratification is similar to the motion he made on 15 July amending Jay's 11 July resolutions of ratification (Convention Debates, 15 July, at note 2 [below]).

7. For the 17 September 1787 resolution of the Constitutional Convention forwarding the Constitution to Congress, see RCS:N.Y., 538; and CDR, 317–18.

8. For the 31 January–1 February 1788 resolution of the New York legislature, see RCS:N.Y., 705–6.

9. The second resolution adopted by the Constitutional Convention on 17 September 1787 stipulated that after nine state conventions had ratified the Constitution, the Confederation Congress should call the first federal elections (RCS:N.Y., 538–9; and CDR, 318). For a summary of Congress' actions on this matter, see RCS:N.Y., 1250–53.

10. The debate over the location of the capital under the new Constitution was part of the larger debate over putting the new government under the Constitution into operation. For these debates, see DHFFE, I, 11–143. See also Kenneth R. Bowling, *The Creation of Washington, D.C.: The Idea and Location of the American Capital* (Fairfax, Va., 1991), 87–96. William Bingham, a Pennsylvania delegate to Congress, led the fight in Congress to make Philadelphia the new capital.

11. For more on New York's paper currency, see RCS:N.Y., Vol. 1, xl–xliv.

12. New York's elections for state Convention delegates took place from 29 April to 3 May 1788, by which time it was known that six states had ratified the Constitution. Maryland became the seventh state on 26 April and this news reached New York during the Convention elections, although some disputed the veracity of that information. (For the arrival of the news of Maryland's ratification, see "The New York Journal and Maryland's Ratification of the Constitution," 1–5 May, RCS:N.Y., 968–71.)

13. For the Fourth of July "fracas" in Albany between Federalists and Antifederalists, see RCS:N.Y., 1264–75.

George Clinton's Remarks Against Ratifying the Constitution, 11 July 1788¹

Substance of a speech made in the N.Y. State Convention against adopting the new Constitution.

On a consideration of the objections which have been made to the Constitution proposed for our adoption, it will readily be discovered that most of them are founded upon or derive force from the idea, that the system is a departure from the principles of a Confed[e]racy and embraces the essential powers of a general consolidated government; on the other hand, if we take a view of the arguments, which have been offered to refute these objections, it will appear that they are principally predicated on a denial of this position and attempts to establish the contrary doctrine; It is asserted that the rights of the States

will remain uninvaded and that they will serve as effectual barriers to secure the liberties of the people against the undue encroachments of power—and it has even been admitted by one of the framers and ablest advocates of the system—that so extensive a territory as the United States, would not be governed, connected and preserved but by the supremacy of despotic power.²

In order then to be able to form a proper judgment on this subject, it is necessary carefully to inquire how far this system partakes of or departs from the nature of a confederate republic; and what from the power it possesses and the objects it embraces, its probable operations will be.

The definition given of States and their rights by authors of the first authority is, that they are equally free and independent, as the individuals of which they are composed, naturally were—that they are to be considered as moral persons, having a will of their own and equal rights—that these rights are freedom, sovereignty, and independence. The celebrated Vattel treating on this subject, observes “that power or weakness does not in this respect produce any difference. A dwarf is as much a man as a giant; a small republic is as much a sovereign as the most powerful kingdom.”³

Hence it follows, that as the only inducement, which men can have to quit the condition in which nature has placed them and enter into society is the preservation of their rights and liberties, so the only end for which states are induced to confederate, is mutual protection and the security of their equal rights—and the idea of states confederating upon principles of inequality and destructive of their freedom and independence is as absurd and unreasonable as it would be to suppose that a man would take a draught of poison to preserve his life.

From these premises it is clearly deducible that the elements of every just league or confed[e]racy, however diversified in the modification, ought to be

1st. That as the States are the creative principle, the power of the confed[e]racy, must originate from and operate upon them, and not upon the individuals, who composed them, and consequently be confined as far as possible to general extraneous concerns, reserving to the States the exclusive sover[e]ignty and arrangement of their internal government and concerns.

2nd. That the states having equal rights to protect, ought to be equally represented.

3rd. That it is the will of the States, which is to be expressed in the federal council, as their interests arise and their safety may require, they ought to have the government of that will and therefore that the

delegates who are to express that will, ought to be subject to their appointment and controul.

I presume that to the most superficial observer, it will appear that these principles are founded in the reason and nature of things. To enter into a train of reasoning to support them, would consequently be an unnecessary waste of time. I am persuaded they will not be controverted.

If then in the formation of a Confed[e]racy, an adherence to these principles, is essential to the security of the confederating states, we shall find on an examination of this system, that except in appearance, it is a total departure from them and calculated in its operations, to destroy not to preserve their existence.

From the terms of the Instrument it appears that the powers granted do not originate from the states in their political capacity but from the people at large—The style is “We the people of the United States” hence this government must be considered as an original compact, annulling the State Constitutions as far as its powers interfere with them and thus far destroying their distinct rights—The powers of this government operate not upon the States but immediately upon the people that compose them—They are not confined to the general and extraneous concerns of the States but extend to the most important internal affairs, to wit, the raising and levying of taxes direct and indirect—the regulation of bankruptcies, the establishing of rules for naturalization, the organizing & disciplining the militia, and the regulation of the Elections for Senators and Representatives in Congress.

2—The equality of Representation as States is also destroyed—The Legislative authority is divided into two (2) branches, a house of Representatives & Senate.

In the house of Representatives the states cannot be said to have any share in the representation—as that branch is elected by the people in their moral capacity—but if the contrary should be alledged, yet the representation is unequal, the ratio of representation being in proportion to the number of inhabitants of which the States are respectively composed—In the Senate, indeed, they are equally represented, and in this instance it would appear to partake of the principles of a confederate government, but this feature of federalism is destroyed, as the mode of voting in the Senate is not by states but by voices, in the latter way the States may not be able to express their will for having two members who may vote differently on the same question, they may have two wills, a negative and a positive one. From whence it will appear that the only check which the states will possess in this or any other

instance might be derived from their being electors of one Legislative branch of the general government.

From this concise view of the subject, it is evident, that the system is not constructed upon the principles of a federal republic, for wherever a federal feature appears in it it is united with the stronger impressions of consolidation, is neither raised upon an equality of rights or representation in the States.

The objects of a Confederacy being as before observed the preservation of the rights of the States and the States being the creative principle, it is obvious that the Confed[e]racy ought to depend upon the States for its existence but if we examine the present system, we will find that this principle is reversed and that the existence of the latter depends solely upon the former—and if we permit our sentiments on this occasion to be governed by the history of ages and the experience of mankind, as to the encroachments of power, when there is no constitutional or effectual bar to restrain them—we may safely venture to pronounce that it is not only possible but highly probable, that should the Constitution be adopted, it will ere long terminate in a consolidation of the United States into one general government.

It commences in a complete system of government—divided into Legislative, Executive, and Judicial Branches and totally independent of any other power for its continuance—it has a perfect control over the elections of its members—it possesses power over all the resources of the country with the absolute and uncontrolled command of the military services of the people while the States are left wholly destitute of any means of support, but what they hold at the will and pleasure of the general government—They are divested of the power of commanding the services of their own Citizens and reduced to the degraded situations of petty corporations by being rendered liable to suits. But if any thing farther was necessary to their total annihilation, the powers vested in the judicial department, which is rendered totally independent both as to the terms and emolument of their offices (except as to an increase of salary) & whose decrees are uncontrollable and fully competent to that purpose since it possesses still more extensive power, than the legislative and if possible still more dangerous to the existence of the States—for besides comprehending within its jurisdiction all the variety of cases, to which the other branches of government extend, it is authorized to determine upon all cases in law and equity arising under the Constitution &c—In every controversy therefore which may arise in cases where the States may be supposed to possess concurrent jurisdiction with the general government, as in the case of

internal taxation, the decision of the supreme judicial upon equitable principles is to be final and by a fundamental principle of the government, these adjudications will be engrafted into the original compact. The more the powers of the general government are enlarged by these decisions the more extensive does the jurisdiction of the judges become. It is an old established maxim among lawyers that he is a good judge who enlarges the sphere of the jurisdiction of his Court—a maxim that has never failed to have been faithfully pursued—as instances we need only refer to the Courts of Kings Bench and Exchequer in England—but it will not require an extraordinary stretch of legal ingenuity in the judges to extend their power to every conceivable case and to collect into the sphere of their jurisdiction every judicial power which the States now possess.

The objects of this government as expressed in the preface to it, are “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”—These include every object for which government was established amongst men, and in every dispute about the powers granted, it is fair to infer that the means are commensurate with the end—and I believe we may venture to assert, that a good judge would not hesitate to draw this inference, especially when supported by the undefined powers granted by the 8th. section of the 1st. article and the construction that naturally arises from the prohibition against the creation of a nobility, a power which would otherwise appear to be neither expressly or impliedly granted.⁴

I am sensible, it may be said, that the state governments are component parts of the general government and therefore that of necessity their existence must be preserved and that the Constitution has guaranteed to them a republican form but this, on the least reflection, will appear to be too feeble a security to be relied on, when they are divested of every resource for their own support and the terms too indefinite to afford any security to the liberties of the people, as it includes in it the idea of an arbitrary aristocracy as well as of a free government—The form may exist without the substance. It will be remembered that this was the case in Rome when under a despotism—The Senate existed as formerly—Consuls, Tribunes &c were chosen by the people—but their powers were merely nominal, as they were ruled by the will of the reigning Tyrant—and the most arbitrary ministers and judges generally preserve the forms of law, while they disregard its precepts and pervert them to the purposes of oppression.

From these observations, it is evident, that the general government is not constructed upon federal principles, & that its operations will

terminate in a dissolution of the States—That even if this should not be the case, they will be so enfeebled as not to afford that effectual security to the rights and liberties of the people, against the undue and extensive powers vested in the general government, as its advocates have led them to expect.

This being the case, the objections which have been stated against the system, must appear to be well founded—and it therefore becomes our indispensable duty to obviate them by suitable amendments calculated to abridge and limit the powers to general objects. The evils pointed out in the system are now within our power to remedy—but if we suffer ourselves to be influenced by specious reasoning unsupported by example to an unconditional adoption of an imperfect government, the opportunity will be forever lost, for history does not furnish a single instance of a government once established, voluntarily yielding up its powers to secure the rights and liberties of the people—

1. Copy, George Bancroft Collection, NN. In a marginal note in this copy, historian George Bancroft stated that Clinton “probably” made this speech in reply to John Jay’s 11 July motion calling for the ratification or rejection of the Constitution. For a brief discussion of the Bancroft Transcripts, see the headnote to George Clinton’s Remarks on the Taxing Power of Congress, 27 June (RCS:N.Y., 1971).

2. In a marginal note, Bancroft stated that Clinton probably referred to a speech made by Alexander Hamilton on 27 June. See Convention Debates, 27 June, at note 16, and note 16 (above).

3. See Emmerich de Vattel, *The Law of Nations; or, Principles of the Law of Nature: Applied to the Conduct and Affairs of Nations and Sovereigns* (Dublin, 1787), Preliminaries, “Idea and general Principles of the Law of Nations,” Section 18, “The Equality of Nations,” p. 9. The *Law of Nations* was first published in 1758 in London in a two-volume French edition. These volumes were translated into English and published in London in 1759 and again in 1759–60.

4. See George Clinton speech, 27 June, note 1 (above).

Newspaper Reports of Convention Debates, 11 July 1788

New York Daily Advertiser, 15 July 1788¹

*Extract of another letter from same place [Poughkeepsie],
dated July 11, 3 o’clock, P. M.*

“This morning Mr. Jay brought forward the grand question, by a resolution for adopting the Constitution; he spoke forcibly, and commanded great attention: the Chancellor also spoke with his usual energy and brilliancy. Our worthy Chief Justice² was also on his legs. Mr. Smith, Mr. Lansing and the Governor, spoke against the resolution, and from what fell from them, they seem determined to support a conditional adoption; this the Federalists consider as a rejection under another name, and no doubt will protest against it. I am at a loss what

opinion to offer; I fear much from the pride and perverseness of some, and more from the wicked ambition of others.”

1. Reprinted in the *Independent Journal*, 16 July, and in twelve newspapers outside New York by 31 July: N.H. (1), Mass. (3), N.J. (1), Pa. (4), Md. (1), Va. (2).

2. Richard Morris.

*New York Daily Advertiser, 16 July 1788*¹

On Friday Mr. Jay came forward with a statement from the informal Committee; representing, that no plan of conciliation had been formed, and no measure taken, in consequence of the Antifederalists adhering rigidly to the principle of a conditional adoption, which was inadmissible and absurd. He went into a consideration of the nature and tendency of such an adoption; compared it with the powers delegated to this Convention, and the powers of the future Congress; and inferred, that it would amount in result to a total rejection. He called on the opposition repeatedly to answer his arguments.—He was replied to by Mr. Smith and Mr. Lansing, who attempted to prove that the Convention, as the representatives of a sovereign people, had a power to agree to the Constitution, under any restrictions and qualifications which should be thought expedient. They insisted that the Congress would have a right to restrain the exercise of any power given them by the Constitution:—that it was in the power of any Legislature to apply a different mode of imposing burthens on different parts of a state, according to circumstances.

The Chancellor, in the course of this debate, assumed a mode of reasoning a little different, but not less impressive than that of his worthy colleague. He appealed to the apprehensions and passions of the Convention—painted in the most glowing colors the unavoidable convulsions of our state—the depreciation of our currency—the great loss arising from the removal of Congress from our capital—and the various disadvantages of being deprived of a voice in the counsels of the Union.

1. Reprinted in the *New York Morning Post*, 17 July, the *Albany Journal*, 21 July, and in twelve newspapers outside New York by 2 August: N.H. (1), Mass. (4), R.I. (1), Conn. (1), Pa. (2), Md. (2), Va. (1).

Private Commentaries on the Convention, 11 July 1788

Abraham Bancker to Evert Bancker

*Poughkeepsie, 12 July 1788*¹

My dear Uncle—

I have but just Time ~~to~~ Mr. Brockholst Livingston² to acknowledge the receipt of your Letter and to Say that I fully approve of your Sentiments in regard to our political Situation, and to the Measures you

wish to be adopted. They are perfectly congenial with my own; all that I have to lament at this present Juncture, is that there is not a sufficient Number in this Convention to insure the absolute Adoption of the Constitution—

Matters have now drawn to a Crisis two Resolutions now lay before the House, the one federal,³ the other from the Opposite Party. The former propose a full adoption of the Constitution, and then to annex declaratory and recommendatory Amendments. The other party have proposed what they term a Conditional Adoption, but what we term a gilded Rejection They have a preamble of a long Bill of Rights and declaratory Amendments to their pretended Ratification; in the Body of it is inserted three conditions whereby they restrict Congress from the Exercise of Some of the Powers, which is implied to be granted in the Constitution they pretend to adopt,⁴ and finally follows a long String of Amendments to be recommended for the Consideration of the first General Congress under the New Governmt—Now, in the name of Common Sense, will this be considered and treated as an Adoption; We are of Opinion, Not. We cannot view in that Light, and do and will, and therefore must oppose it—But this, Say they is our *Ultimatum* We go not a Step beyond it. I believe it to be a Settled point that they are fixed and determined, and farther that they have pledged their Faith and their honour to adhere to this resolution; which was the Result of their deliberations, in a secret Conclave, if I may use the Expression, about which they were in close debate for two days, which they did of their own Accord and more good pleasure, without even consulting us in the Business. We had appointed an informal Committee⁵ to consult and agree upon the Manner of arranging the Amendments; but the Committee arose without accomplishing any thing. I have much to Say when we meet. I believe the general Question will be put on Tuesday or Wednesday. And I am apprehensive you will find me among the Minority. Wherever I Shall be I hope I Shall So determine as that I Shall be able to answer to my Constituents for my Conduct, and finally to the righteous Judge of all Mankind, at that Awful Tribunal before which I am Sure to appear, to answer for the deeds done in the Body. I trust that Actions which proceed from good Intent, which the Monitor within approves of, must be Satisfactory to the Public, and that that Monitor will also prove a faithful Evidence, at the last day to applaud or condemn.

N B. Couzn. A B B⁶ is well & gone to Kinston⁷—

1. RC, Bancker Family Correspondence, NHi. This letter was docketed as received on 14 July and answered on 24 July (RCS:N.Y., 1338). It was addressed to Evert Bancker, Wall Street, New York.

2. Livingston, who carried the letter, was a New York City lawyer and John Jay's brother-in-law.

3. For John Jay's Federalist resolution, see *Convention Debates*, 11 July, at note 1 (above).

4. A reference to the "plan of amendments" proposed by John Lansing, Jr., on 10 July (RCS:N.Y., 2119–27).

5. For the members of the committee, identified as Federalists and Antifederalists, see *Daily Advertiser*, 15 July (RCS:N.Y., 2128).

6. Cousin Abraham B. Bancker, one of the two secretaries to the New York Convention, was a resident of Kingston.

7. This N.B. was written across the address page.

De Witt Clinton to Charles Tillinghast
*Poughkeepsie, 12 July 1788*¹

The business of the Convention is now wound up to a Crisis. 3 different species of amendts. were proposed yesterday by Mr Lansing²—they were the result of "a spirit of amity and mutual concession"³ even in the party that brought them forward—some of the members were for making the ratification of certain amendts. absolute conditions of adoption. However several considerations induced the mode I am now going to describe. The amendts. are 1. explanatory. 2. conditional. 3. recommendatory The first contain a bill of rights and an explication of some important parts of the constitution which were either equivocal or too latitudinal—for instance, the clause prohibiting the passing of ex post facto laws is thus explained or rather restrained—provided that this clause shall not be so construed as to screen public defaulters. The conditional prohibit the operation of the Constitution in this state as to direct taxation without making a previous requisition (vide Mass: Amendt.)⁴ as to the regulation of elections unless in cases of neglect, inability or refusal &c. until a new genl. convention is called. The recommendatory are numerous & important. This proposal was attacked yesterday [11 July] by Jay, the Chancellor, and Judge Morris and defended by Smith, the Governor, and Lansing. The first insist that Congress can never receive us into the union in this manner: I have no doubt, however, but what they will, and then our Represents. in Congress can be of service in calling another Convention. I expect the Convention will break up in a few days. The proposal I mentioned, is the ne plus ultra of anti concession. Many indeed thought they had conceded too much—If the feds. had been friendly instead of being inimical to the proposal, I have my doubts whether a majority of antis would not have voted against it—but the opposition of their political adversaries has reconciled them. I Received your letter. I thank you for it. My compliments to the Genl.⁵ and family.

P. S. M. Smith made a very long and masterly speech in favor of the proposal this day—he was preceded by Mr. Williams and followed by

Mr. Lansing—Mr. Hamilton spoke against it in strong terms. I have been informed that the quarrel between the antis and feds at Albany has not entirely subsided⁶—that the latter persevere in firing 10 Cannon and that the Country People are much enraged at it. My best respects to Mr. Hughes.⁷ I will write again as soon as possible. I have no fear that the antis will keep together now—they have not long ago been in a situation that I will not mention until I see you. I have seen some extracts of letters and other statements in some of the N York fedl. papers that are not true. To use an expression of Hume a man of sense will lend a very academic faith to them & others similar.⁸

1. RC, Lamb Papers, NHi. Addressed to Tillinghast, this letter was “To be left at/No. 44 Wall street/New York.” That address was the residence of Antifederalist leader John Lamb, Tillinghast’s father-in-law and collector of the Port of New York. The Customs House was located in the lower part of Lamb’s house.

2. John Lansing, Jr., “submitted a plan of amendments” on 10 July (RCS:N.Y., 2119–27). The next day, in response to resolutions to ratify the Constitution moved by John Jay, Melancton Smith “moved the Draft of a Form of Ratification” as a substitute for Jay’s (RCS:N.Y., 2135). Smith’s form has not been located, but on 15 July he proposed it again as an amendment to Jay’s. (See Convention Debates, 15 July, at note 2 [below]).

3. This quoted phrase was taken almost verbatim from George Washington’s letter of 17 September 1787 to the President of Congress transmitting the Constitution to Congress. The letter reads “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” (RCS:N.Y., 526; and CDR, 305).

4. For the fourth amendment to the Constitution that the Massachusetts Convention recommended on 6 February 1788, see RCS:Mass., 1469–70, or CC:Vol. 4, p. 68.

5. John Lamb.

6. For the “fracas” between Albany Federalists and Antifederalists on the Fourth of July, see RCS:N.Y., 1264–75.

7. Probably James Miles Hughes, a New York City lawyer, notary public, and master in chancery, who had been in Poughkeepsie when the New York Convention began its sessions.

8. David Hume, *Philosophical Essays Concerning Human Understanding* (London, 1748), Essay X, “Of Miracles,” Part II, 196. “The Wise lend a very academic Faith to every Report, which favours the Passion of the Reporter, whether it magnifies his Country, his Family, or himself, or in any other Way strikes in with his natural Inclinations and Propensities.”

The New York Convention Saturday 12 July 1788

Convention Debates, 12 July 1788

JOHN JAY. Went to the Committee disposed to accomdn.—props. were received dictated—

There not commd. as a Basis of agreemt. [Melancton Smith, Notes, N]

* * * * *

JOHN WILLIAMS. 1. Union absolutely necessary—

2. Old Confederation mischievous—

Only one Side of the Question viewed—their Constituents will consider them as betraying their Interests—Manner of *exercising* the Power always included in the Power itself— [Richard Harison, Notes, DLC]

* * * * *

MELANCTON SMITH. Moved that Mr. Jays mo[tion] be postponed to take up the followg—

I hoped that the Proposition I d[elivere]d yesterday would have been agreeable

They are not acceded to—

They will accept no Medium—

They speak their own Sentiments and those of their Constituents

We do the like—

We propose 1 Declaration of Rights

2 Explanatory Amendmts.

3 Conditional three Amendts until &C

4 Recommendatory Amendmts.

Necessary to explain the Condition—

Perhaps not clear that the Congress have power to call the Convention

If they have not, we will agree to amend so as that a Convention be called in such way as the Constitution will permit—

The Quest. is—Have congress a right to lay down rules to govern their own Conduct in matters left to them generally to do what they think best—

Ex gr. [i.e., e.g.] The Legislature have the Genl Power of Taxing

Cannot they lay down a Rule for their mode of Taxing—as by Poll Tax—Specific Tax—

Admitted they may not abrogate a Genl. Power given by a Constitution—but they may limit the Mode for a given Time—

The force of (Mr. Jays Argumt.) That no Legislature can alter the Constitution by which exist—

Admitted—Our Amendment does not annull the Constitution—

Every Legislature has the Power we contend for—

The Gent asked can the Legislature of N York declare that suffolk County shall not be bound by the Constitution—No—

but may say Suffolk County shall pay no Tax for 2 years—

They may prescribe that taxes be differently laid in Different Counties.

The Legislature may alter the mode of Elections

They may alter the mode of marching the Militia from a particular County

The Genl. Legislature would not thereby assume Power—They would be restricted, and only

It also depends on an Event the Genl. Legislature may hasten as soon as possible—Their first Act may be to obtain a Convention of the People

What difference between Conditional Amendmts and Explanatory—
As to compacts and Contracts much has been said—

Why so rigid—

See the Solemn Compact of the Confederation¹—and yet here is a Compact insisted if because agreed to by nine States, directly in Breach of the other—

If they should refuse to receive Us

The Gent. says the Business of Congress only Ministerial—

What Power has Congress to determine whether a Ratification is full or legal or not—

Nay Where did they get their Ministerial Power in this Business—
Could the Convention at Philadelphia give it—

When the Genl. Congress meet under the New Constitution—they must of Necessity be the Judges of their own Members—

They will and every good Man wish to receive

This left on so liberal and generous a plan

It is said it will irritate the States and will be dictating to them

By no Means—

Do we ask indecent, irritable or unreasonable Things—No—

We ask you to take up these things yourselves—Consider them and whatever is the Result we will be with you—

If this is insult—The Liberty of America is fled.

Sir I said yesterday the Adoption of this Constitution in every State had been matter of Conveniency—

And notwithstanding the greatest Exertions *It has been saved so as by Fire*

Many of us represent Counties who desire these Amendmts.

We as faithful Representat[ives]

It is said We as a Minority should submit to a majority of the People of the united States—

This will destroy every Compact and this very Constitution

Did not we exist under a Compact

It is said this will be dangerous—Rhode Island may propose to make her Paper Money Good

A State may come

Do we ask—

A Gent from N York [Robert R. Livingston] says Congress will reject us because it will [be?] the Interest of Pennsylvania²

The Smaller States will be against it

The encrease of States lessens the Power of the Smaller States

That such a proposition Could not be bro't forward by *an Honest Man*

The Gent. Instance Taxing—

The Instance Taxing perfectly agrees with

An Election cannot be necessary before—

If the militia are necessary for two years they must apply to the Legislature—

Excise not necessary on home Manufactures and a Convention

As to proportions

The Proportions are expressly the Same—

As to the predictions of drear[ful] Evil

I shall return and Cultivate Peace

Will it create Peace to pursue the opinion of the Minority

Have not every Measure been taken for Peace

If my Sentiments are altered it is to think it worse—

Yet to manifest a perfect wish and Affection to our Sister States We have gone as far as duty to ourselves and our Constituents and Conscience will permit—

We have manifested a disposition to recede—the Gent opposed in Sentiment have not mani [McKesson's Notes, NHi]



SMITH. Speaks the Sentiments of himself & his Constituents—what is to be done? Supposes we agree upon all other Points except the *Conditional*—perhaps in an Error as to Power of Congress to call a Convention—

I. Power of Congress—

Qu. have Congress a Right to lay down Rules for their future Govt.

Admits that they

Cannot restrain or annul the Power of future Legislatures—but may agree not to exercise it for a certain Time—

Genl. Legislature cannot annul the Constitution

have a Right to say that no Tax shall be laid upon Suffolk for a certain Time—

Powers may be exercised differently in different Counties—
 No Inconveniencies from the present Mode—
 Are not to adhere to Compacts in setting this Govt. a Foot—break
 Compacts in forming this Govt.—
 —present Congress have no Power to accept or receive refuse the
 Ratification—they have no Right to judge of the Validity of the Ratifi-
 cation—
 Next Congress will probably accept the Ratification—This Constitu-
 tion has never been decided upon properly—
 Come representing People *opposed* to the Constitution & must satisfy
 them— [Richard Harison, Notes, DLC]

* * * * *

JOHN LANSING, JR. I proposed a Com[mitt]ee
 A Gent offered a proposition—I alledged we were not authorized—
 I mention this in Answer to the observat we should reason first and
 determine afterwards—
 It has been asserted this mode will be a Rejection of the Constitu-
 tion—
 The Election was
 for Previous Amendmts. or for Recommendatory amendts.
 The Gent (who first Spoke)
 Asked If a County was refractory what was to be done
 The Cases not alike
 Neither the Convention Nor Congress had power nor did they
 The Gent. said 10 States had Adopted³
 It is said We are presuming to dictate to the Union—
 Do we presume—
 We Submit to the Governmt. with all its imperfections
 Only submit the Imperfections to the wisdom of the People
 A Gent. from New York said we were guilty of Injustice⁴—
 Do we say we will Coerce—
 Have not taken such a measure as to convince our Sister States that
 we—
 It is said we must pay respect to the opinion of our Neighbours Yet
 must determine
 If we have reason to fear the Vengeance of the Almighty then What
 can we think of ourselves
 It was Said the Sword was committed to this Govt. and nothing but
 the Hand of Perfidy
 Septenial Parliamts⁵

It is said A Majority should Govern & 10 States have adopted it—
Consider the Situation of the States

Our being here is a Convincing proof that each State yet retains
Sovereign Powers—

1 Militia—They may be called Six weeks—

And longer if necessary by application to the Legislature—

2 No Excise

There are other Funds—Excise not soon to be raised

3 Regulation of Elections—

It is said an Explanatory Amendt. will answer—if so—why not a Con-
ditional one—

Many Argumts. from Expediency have been offered

They have been fully Considered—We know the Dangers & the
risque we run—We know the Sentiments of our Constituents and can
go no farther—

As to the Question which proposition should be first put— [Mc-
Kesson's Notes, NHi]



LANSING. Not authorized to go further than was done in the informal
Committee—this will not amount to a Rejection—previous & subse-
quent Amendmts. the only Difference in the County of Albany, between
the Parties—

Motives of Expedience, the Reasons why the Constitution was adopted
in the several States—

No Cöercion implied in the proposed Conditions, nor Injustice—

Is it proposed to cöerce the dissenting States?—

Septennial Law is a Proof that the Powers of Govt. cannot be parted
with safely as they may be exercised agt. the Wishes & Interest of the
People— [Richard Harison, Notes, DLC]

* * * * *

ALEXANDER HAMILTON. I rise with Reluctance

It has been industriously circulated that I am a Man of such Talents
as to espouse carry any Cause—

Insinuations agt. me out of this Hous[e] to shut the Hearts of The
House agt. me— [McKesson's Notes, NHi]



HAMILTON. A I A republic a word used in various senses—
has been applied to aristocracies and monarchies

1 to Rome under the Kings

2 to Sparta though a senate for life

- 3 to Carthage though the same
- 4 to United Netherlands though Stadholder. Hereditary order
- 5 to Poland though Aristocracy and monarchy.
- 6 to G Britain though Monarchy &c

II Again great confusion about the words democracy Aristocracy Monarchy.

I Democracy defined by some Rousseau &c. a government exercised by the collective body of the People⁶

2 Delegation of their power has been made the Criterion of Aristocracy.

II—Aristocracy has been used to designate governments

- 1 where an *independent* few possessed sovereignty
- 2 Where the representatives of the people possessed it.

III Monarchy, where sovereignty in the hands of a single man.

☞ General idea—Independent in his situation in any other sense would apply to State of N York &c

III Democracy in my sense where the whole power of the government is in the people

1 whether exercised by themselves or

2 by their representatives chosen by them either mediately or immediately and legally accountable to them—

IV Aristocracy where whole sovereignty is permanently in the hands of a few for life or hereditary—

V Monarchy where the whole sovereignty is in the hands of one man for life or hereditary—

VI Mixed government where these three principles unite

B I CONSEQUENCE, the proposed government a *representative democracy*

- 1 House of representatives chosen by the people for two years
- 2 Senate indirectly chosen by them for 6 years
- 3 President indirectly chosen by them for 4 years

☞ Thus legislative and executive representatives of the people

4 Judicial power, representatives of the people indirectly chosen during good behaviour.

5 All officers indirect choice of the people

☞ Constitution revocable and alterable by the people.

C I This representative democracy as far as is consistent with its genius has all the features of good government

These features—

a 1 An immediate and operative representation of the people which is found in the house of representatives

2 Stability and Wisdom which is found in the senate

3 a Vigorous executive which is found in the President
 4 An independent judicial which is found in the Supreme Court
 &c

b—A separation of the essential powers of government—
 Ascertain the sense of the Maxim

I—one depar[t]ment must not wholly possess the powers of another.

—Montesquieu

—British Government⁷

II Departments of power must be separated yet so as to check each other.

1 Executive Legislative

2 legislative executive

3 Judicial legislative

4 Legislative judicial

☞ All this done in the proposed constitution

1 Legislative in the Congress, yet Checked by negative of Executive

2 Executive in the President yet checked by impeachment of Legis

3 Judicial check upon legislative in Interpretation of laws

4 And Checked by legislative through Impeachment.

D 1 Can such a Government apply to so extensive a territory?

Exaggerated ideas of extent

N 45°. 42°—

S 31 31

14

11

434

973

764½

mean

868¾

by

750^s

Great Britain—

2 De[s]potic Government for a large country to be examined.

Review

I First house of representatives chosen every second year &c

II Senate for ~~seven~~ 6 years by Legislatures

Rotation every two years

probable increase—

III Executive manner of appointment

compensation—

Negotiation of treaties

Nomination of officers—

IV Judicial power constitution of judges

- Extent of powers
- inferior Courts
- Trial by jury
- Criminal cases—.

Powers

- I To provide revenue for the common defence
- II to regulate commerce
- III to declare war
- IV to raise & support armies
- V admission of new States
- V[I] Disposal of property
- Miscellaneous advantages
- I to prohibit importation of slaves prior to 1808
- II account to be rendered of expenditure of monies
- III No state shall emit bills of Credit tender *ex post facto* law or law impairing the obligation of contracts, or grant title of nobility
- [I]V Definition of treason
- V Guarantee of republican Governments

Discussion

- I Concurrent jurisdiction
 - objections to system proposed recapitulation with additional idea respecting necessity of standing army—

General observations

- 1 on restraint of revenue necessitating a standing army
- 2 on restraint upon power respecting Militia tending to the same point
- 3 on restraint upon reeligibility of the executive after 8 years—
 - with a Council of influence—

Desireable amendments

Structure of Government

- 1 in relation to house of representatives
- 2 in relation to Court of impeachments
- 3 in relation to standing armies
- 4 in relation to trial by jury—

This being the character of the constitution we are to adopt it is evident that it would be unwise upon speculative defects to reject it or even to do what might by possibility amount to a rejection—

Let us now examine the nature of the propos[it]ion before us—

I First inquiry have we power—

1 Trace it Convention direct that it be submitted to Conventions for assent and ratification⁹—

2 Congress send it to legislatures to be submitted *in conformity to that resolution*¹⁰

3 Joint resolutions submit it *for that purpose*¹¹—

☞ Consequence we are to *assent or reject* and have no power to bind the people by amendments of any kind—

+ { Amendments make a new constitution & in this case the people would be bound upon a contingency of 9 States calling a Convention

II Could Congress receive it

1 People Creators

2 Congress and all its attributes The Creature

☞ Consequence no attribute or character or power but these—

What is or is not a ratification is to be sought for there

3 Is it or is not an assent to that Constitution? It is not

☞ Congress therefore cannot consider it as such

☞ The test is this—It is professedly a condition which requires a subsequent assent—

2 Congress must be organised to assent

3 It is not therefore a valid original ratification

3 [i.e., 4] Nor according to the instrument by which Congress are created—

☞ Can Congress assent—

1 If they can their power must result in theory from the nature of delegated power—Or

2 from some express provision in the Constitution—

3 There is no such express provision—New States—Mode of alteration

4 Contrary to theory

5 The [Deposition?] of delegated power can neither increase nor diminish. Leg. pow

6 Examine argument about forbearing exercise

7 Maxim legislature cannot bind itself nor alienate itself

Therefore 8 Congress cannot constitutionally accept

If they were to attempt it, their act would be nugatory

What number shall be sufficient to assent to Conditn

~~Question will they in point of expediency accept it~~

Pre[ce]dent bad.

Is it probable it will be accepted?

I Difficulty will begin with present Congress about place

II Precedent

III. Obstacle from prejudgment of present Congress many of whom will probably be members of that

IV Perhaps from the desire of some states to dismember us—

V From pride for after all ten receivin[g] the law

Want of confidence &c

VI From unwillingness to submit the matter to discretion of a minority

Disadvantages

I—If we are out of the Union we cannot have a voice ~~concern~~ in amendments—

I Cui bono?¹² Is it a ground on which we can stand? [Alexander Hamilton, Notes, DLC]¹³

—◆—

HAMILTON. Rises with reluctance—

1. because he wishes to conciliate—

2. That he is plausible—

Believes it will not answer the purpose—though he thinks the Gen[tlema]n means it to be so—

The impost acceded to—instanced—shd admonish us¹⁴—

2 questions arise—

1. Our own powers

2d. The powers of Congress to receive and the proby.—

No power except to accept or reject—

1st. Acts. The Resolution of the Convent[ion]s to ratify—

the power to assent, implies a power to reject—the words imply no more

2d. The Act of Congress, mere instruments—in conformity to the Resolution—

3. Our own Resolution—first recite the Resol.—to meet in convention for the purpose aforesaid—clear we have no other power—

Is this such an adoption as congress can accept—or will—

1st. A Condition is annexed—the Congress must assent, before it is valid—therefore you are not a party in the first instance—can Congress make you a party—by an act—no power but what is given—no power to admit upon condition—either upon the theory or principle—delegates can neither abridge or enlarge their power—it is agreed it is an abridgement of the exercise—a difference to forbear—and disable us to exercise—put it out of their power to exercise—The question can

the Legislature bind themselves not to exercise power—it is a principle of universal Law, that a Legislature cannot bind themselves not to exercise a power—the instance of Counties—would a Contract with the County of Suffolk not to tax, they cannot—therefore the general government cannot abdicate them—A most dangerous principle—Will it follow, because we are compelled to break one Contract, does it follow we should another—

Nine States must have application to Call a Convention—may be perpetual—

Must lay aside their constitutional right of judging of the propriety of amendments—If submitted to Congress to consider, this wd. be proper—

Is sure his reasoning is demonstration—

Is it probable, that Congress, would overleap the bounds—

A desire to unite all, would operate—but it would not induce them to break the Const—

The question will come before this Congress Collaterally—the questn. will arise abt. the place of the new govt. meeting—those who wish to have the govt. moved, will urge that it is not adopt.—that will predjudice a future decision.

Suppose the majority or considl—should be opposed to the amendments—probable they will— $\frac{2}{3}$ must agree—have a right to remain out of the union—but the States will think we ought to place confidence—this mode like imposing conditions—pride predominates in the human heart—like an attempt to give law, More likely to succeed by Recommendn—

Why risk so much—

Is it probable, the Congress will not consider—ask them to consider, when we know they will consider—many States of the same mind—Can we stake our opinions on such a shadow—what will they say of the consequences—Gentlemen under the influence of proper motives—unwilling to submit the Character of his understang—our Const[ituent] will condemn us—if the event turns as we are morally certain—

admits a majority—but we shd. not be influenced—circumstances are changed [Melancton Smith, Notes, N]

1. See Article XIII of the Articles of Confederation (CDR, 93).

2. Livingston refers to the debate in Congress over the location of the national capital. See Convention Debates, 11 July, at note 10, and note 10 (above).

3. See a speech by John Jay (Convention Debates, 11 July, RCS:N.Y., 2131, 2133).

4. See the speech by Robert R. Livingston (Convention Debates, 11 July, above).

5. See Convention Debates, 11 July, note 4 (above).

6. For Jean Jacques Rousseau's definition of democracy, see *A Treatise on the Social Compact; or the Principles of Politic Law* (London, 1764), Book III, chap. 3, "Of the actual

distinctions of governments,” 106–9, and chap. 4, “Of a Democracy,” 109–13. Rousseau’s treatise first appeared in French in 1762.

7. Probably a reference to Montesquieu’s *Spirit of Laws*, I, Book XI, chap. 6, “Of the Constitution of England.” This chapter focuses on the separation of powers among the three branches of government.

8. The double-digit numbers represent degrees of latitude and the triple-digit numbers represent the number of miles. One degree of latitude is approximately sixty-nine miles.

9. For the 17 September 1787 resolutions of the Constitutional Convention, see RCS:N.Y., 538–39; and CDR, 317–18.

10. For the 28 September 1787 resolution of Congress, see CDR, 340; and CC:Vol. 1, p. 241.

11. For the 31 January–1 February 1788 resolution of the New York legislature calling for the election of delegates to a convention to consider the Constitution, see RCS:N.Y., 705–6.

12. Latin: For whose good; or for whose use or benefit; for what good, for what useful purpose.

13. This undated eight-page manuscript is docketed “Notes of a Speech in/Convention of N York.” Although the editors of the Hamilton Papers say that the first part of the outline is a transcription done by John Church Hamilton, in fact the entire document is in Alexander Hamilton’s handwriting. (See Syrett, V, 149n–50n.)

14. Hamilton refers to the fact that New York had adopted the Impost of 1783 under conditions that were unacceptable to Congress, clearly implying that Congress would not accept the conditional amendments that had been proposed by the Antifederalists in the New York Convention.

Newspaper Reports of Convention Debates, 12 July 1788

New York Packet, 15 July 1788¹

By advices from Poughkeepsie, we learn, that a number of the Anti-federal members in Convention insist upon the adoption of the new Constitution, in a *conditional mode*—others are willing to adopt it *in toto*, and to instruct their members in the Federal Congress to press the amendment of the system, agreeably to their recommendation. This latter sentiment appears to be most rational, and, we trust, it will ultimately prevail; that our country may be rescued from the horrors of anarchy and confusion.

We are further informed, that on Saturday last, the Honorable Mr. Jay, Chancellor Livingston,² and Colonel Hamilton, severally addressed themselves to our State Convention, in a masterly, animated and pathetic [i.e., moving] manner; which, it is said, made sensible impressions on the minds of such anti-federal members, who have not yet rendered their conceptions entirely callous, by pre-conceived prejudice, to the voice of truth—to sound and eloquent reasoning. In our next, it is probable, we shall be able to declare the *interesting* decision of the Convention, on this important business.

Before *Nine States* had adopted the New Federal Constitution, the ground of argument on that subject was very different from that on which it *now* stands.

Then, there was hope of procuring amendments thereto, before its operation:—*Now*, all hope of that sort has vanished.

Then, the federal compact among the States, under the old Confederation, was entire and unimpaired:—*Now*, there is in fact a secession of Ten States from the old Union, whereby the others are left to shift for themselves.

Then, those who voted against the New Constitution, only preferred the old one, or a chance for another:—*Now*, those who vote against the New Constitution, vote themselves out of the New Federal Union, which may be considered as inchoative.

Those, therefore, who had rather adopt the New Constitution, with its defects, under a prospect of future corrections, than hazard the consequences of being repudiated from the Grand American Confederacy, will give their voices accordingly *now*, whatever part they may have taken *heretofore*.

1. Reprinted: *Pennsylvania Packet*, 17 July; Baltimore *Maryland Gazette*, 22 July; *Providence Gazette*, 26 July (excerpt).

2. Extant records do not reveal that Chancellor Robert R. Livingston spoke on 12 July, although he spoke at length on 11 July. John Jay also spoke at length on 11 July, but only briefly on the 12th.

New York Daily Advertiser, 16 July 1788¹

On Saturday morning, Mr. Jay opened the business by representing the unfairness of the proceedings in the informal Committee. He complained that when met for mutual discussion, they had been insulted by a complete set of propositions presented in a dictatorial manner for their passive acquiescence. He was soon followed by Mr. Hamilton, who in a most argumentative and impassioned address, demonstrated that the propositions before the Committee, would be a total rejection of the Constitution. He opened with a beautiful exordium, in which he described in a delicate but most affecting manner the various ungenerous attempts to prejudice the minds of the Convention against him. He had been represented as an ambitious man, a man unattached to the interests and insensible to the feelings of the people; and even his supposed talents had been wrested to his dishonor, and produced as a charge against his integrity and virtue. He called on the world to point out an instance in which he had ever deviated from the line of public or private duty. The pathetic [i.e., moving] appeal fixed the silent sympathetic gaze of the spectators, and made them all his own.

He then proceeded to refute the fallacious reasonings of opposition—and to describe the nature and tendency of a provisional adoption. He proved, in the first place, from the series of papers on which the authority of the present Convention was founded; that it had no possible decisive power, but to adopt or reject absolutely:—that it had indeed a power to recommend, because this was a natural right of every freeman; but it had none to dictate to or embarrass the union by any restrictions or conditions whatever:—that the Committee was not a body commissioned to tender stipulations or form a compact, but to dissent from or agree to a plan of government, which could be altered either in its form or exercise only by an authority equal in all respects, to the one which gave it existence. Having made this point clear, he went on to shew that the future Congress would have no authority to receive us into the union on such terms:—that this conditional adoption included evidently a disagreement to and rejection of a part of the Constitution:—that Congress, which would hold all the powers it possessed under the Constitution as a simple plan, must consider such a partial rejection in the light of a total one.

That a declaration by any legislature that such and such constitutional powers should not be exercised was in its own nature a nugatory one: that these provisions, making no part of the Constitution, and when accepted by Congress, having, even if consistent with the Constitution, no other than a legal force, would be subject to immediate repeal; that it was indispensibly necessary to good government that the discretion of the legislature should be uncontrolable, except by the Constitution: But by the proposed measure, the discretion of Congress would be limited and controled by a provision not only foreign from, but totally inconsistent with the Constitution; a provision coming from a part of the union without the consent of the other parts; a provision most preposterously calculated to give law to all the sister states. He adduced other arguments to prove that restraining the exercise of a power, or exercising it in a mode different from that pointed out in the form of government, was utterly anti-constitutional, especially when the restraint was only to respect a part of the community.

Mr. Hamilton then urged many forcible reasons to prove that even if it were consistent with the Constitution to accept us on these terms, it was entirely improbable that the other states would submit to it. Their interests and their pride would be opposed to it. Their pride, because the very proposal is an insult; and the animosity of some states, embittered as it is by what they deemed a kind of commercial tyranny, and a system of selfish, partial politics, would receive most pungent gratification from a diminution of our fortune and our power. Their interests

would be opposed, because the misfortunes of one powerful state commonly contribute to the prosperity of its neighbors.

Mr. Hamilton, after recapitulating his arguments in a concise and cogent manner, entreated the Convention in a pathetic [i.e., moving] strain to make a solemn pause, and weigh well what they were about to do, before they decided on a subject so infinitely important.—The orator then closed his address, and received from every unprejudiced spectator the murmur of admiration and applause.²—Very different was the effect upon his opposers.—They sickened at the splendor of his triumph.—Inspired by jealousy and wounded by conscious disgrace, they retired with malice still more embittered, and an obstinacy more confirmed than before.

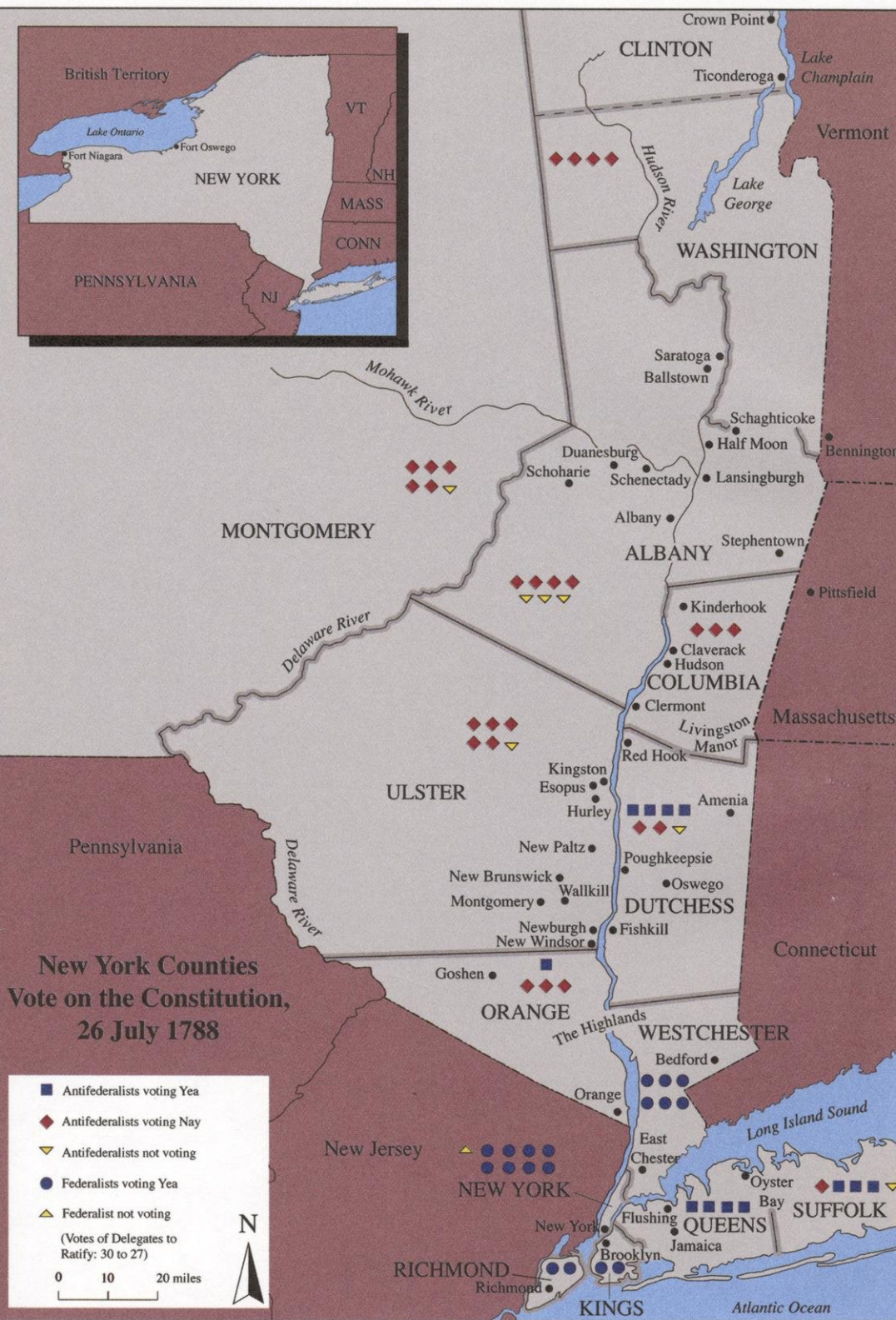
Even the man who of all others should set the first example of magnanimity, the man from whom our country should expect the most finished proofs of exalted virtue—Even he was incensed, and freely expressed the spleen that corroded his heart.

This man, immediately after the adjournment, made a public declaration to this effect—I see the advocates of the Constitution are determined to force us to a rejection. We have gone great lengths, and have conceded enough—but nothing will satisfy them:—If convulsions and a civil war are the consequence, I will go with my party.³

1. Reprinted in the *New York Journal*, 17 July (excerpt); *New York Morning Post*, 17 July; *Albany Journal*, 21 July; and in whole or in part (see note 2, below) in ten newspapers outside New York by 2 August: N.H. (1), Mass. (4), R.I. (1), Conn. (1), Pa. (1), Md. (1), Va. (1).

2. Five newspapers (including the *New York Journal*) of the thirteen newspapers that reprinted this item printed the text only to this point.

3. Probably a reference to Governor George Clinton.



supported recommendatory amendments; others that certain amendments be considered by a second convention; and still others preferred to ratify temporarily "on Condition that certain amendments take place within a given Time." For two weeks delegates debated the type of amendments to adopt. On 17 July a Federalist motion to adjourn until 2 September was rejected by a vote of 40 to 22.

From 19 to 23 July the Convention considered a plan that called for ratification "upon condition" that certain amendments be adopted. On the 23rd Antifederalist Samuel Jones moved that the words "upon condition" be replaced by "in full confidence." Melancton Smith, who had emerged as the Convention's manager, supported the change and the motion was adopted 31 to 29.

On 24 July John Lansing moved that New York reserve the right to recede from the Union if amendments were not considered by a second constitutional convention within a certain time. At this point Hamilton read a letter from Virginia congressman James Madison stating that Congress would find such a ratification unacceptable. On 25 July Lansing's motion was rejected 31 to 28. Whereupon, the committee of the whole voted 31 to 28 to ratify the Constitution, and the Convention accepted the report of the committee 30 to 25. The Convention also agreed unanimously to send a circular letter to the states calling for a second general convention to consider amendments. On 26 July the Convention voted 30 to 27 to ratify the Constitution with recommendatory amendments. A circular letter drafted by Jay was unanimously approved and signed by the delegates. Disheartened delegate Cornelius C. Schoonmaker lamented "that the Federalists have fought and beat us from our own ground with our own weapons," while Federalist Philip Schuyler, a Convention observer, reported that "perseverance, patience and abilities have prevailed against numbers and prejudice."

Substantial new material has been added to our knowledge of what occurred in the Convention. Previously unintelligible and unpublished notes of many delegates have been painstakingly deciphered and transcribed. Instead of segregating the debates by note takers, the notes have been arranged by speaker, permitting the story of ratification to unfold more smoothly. These notes are supplemented by letters written by Convention delegates and observers and by numerous newspaper accounts of the Convention's debates and proceedings.

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