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THE DOCUMENTARY HISTORY OF THE RATIFICATION OF THE CONSTITUTION

Volume XIV

Commentaries on the Constitution Public and Private

Volume 2
8 November to 17 December 1787

Editors

JOHN P. KAMINSKI

GASPARE J. SALADINO

Associate Editor
RICHARD LEFFLER

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

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

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

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

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

IN 1976 and 1978 the State Historical Society of Wisconsin, with the support of the National Historical Publications and Records Commission, published volumes I-III of *The Documentary History of the Ratification of the Constitution*. Volume I, *Constitutional Documents and Records, 1776-1787*, contained documents essential to an understanding of America's constitutional development from the Declaration of Independence to the Constitution. Volumes II and III, *Ratification of the Constitution by the States. . .*, documented ratification by Pennsylvania, Delaware, New Jersey, Georgia, and Connecticut.

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

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

This second volume of *Commentaries* includes nineteen serialized Antifederalist essays by Brutus, Cato, Centinel, Cincinnatus, An Old Whig, and Philadelphiensis; and twenty-eight Federalist articles by A Countryman, A Landholder, and Publius, *The Federalist*. Many other newspaper items also appear. Generally speaking, newspaper items were reprinted regionally and nationally by means of an informal network of printers who exchanged newspapers. The distribution of these reprintings is indicated in the editorial notes and in an informative tabular compilation published as an appendix.

These newspaper essays are supplemented by two Antifederalist pamphlets by the Federal Farmer and A Federal Republican and a Federalist pamphlet by A Citizen of Philadelphia attacking Brutus. The one by the Federal Farmer, the finest and most comprehensive critique of the Constitution, is introduced by an authoritative analysis of its authorship, publication, circulation, and impact.

(continued on back endflap)

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STATE HISTORICAL SOCIETY OF WISCONSIN
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This volume is dedicated to the memory of three men who were of enormous importance to the development of modern historical editing. Julian P. Boyd, editor of *The Papers of Thomas Jefferson*, and Lyman H. Butterfield, editor-in-chief of *The Adams Papers*, set the standards of scholarship to which all historical editors aspire but rarely attain. Oliver W. Holmes, Executive Director of the National Historical Publications Commission, nurtured the critical relationship between the federal government and the community of historical editors. Historical editors are forever in their debt. The Ratification of the Constitution project owes these men a particular debt of gratitude. They all served on the project's board of advisors and gave willingly of their time, learning, and wisdom. Their passing has saddened and diminished each of us.

Organization

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

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

Constitutional Documents and Records, 1776–1787.

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

Ratification of the Constitution by the States.

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

Microfiche Supplements to Ratification of the Constitution by the States.

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

The types of documents in the supplements are:

- (1) newspaper items that repeat arguments, examples of which are printed in the state volumes,
- (2) pamphlets that circulated primarily within one state and that are not printed in the state volumes or in *Commentaries*,
- (3) letters that contain supplementary material about politics and social relationships,
- (4) photographic copies of petitions with the names of signers,
- (5) photographic copies of manuscripts such as notes of debates, and
- (6) miscellaneous documents such as election certificates, attendance records, pay vouchers and other financial records, etc.

Commentaries on the Constitution: Public and Private.

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

The Bill of Rights.

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

Editorial Procedures

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

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

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

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

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

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

Symbols

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

Manuscripts

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

Manuscript Depositories

CSmH	Henry E. Huntington Library
CtY	Yale University
DLC	Library of Congress
DNA	National Archives
MB	Boston Public Library
MHi	Massachusetts Historical Society
MWA	American Antiquarian Society
MeHi	Maine Historical Society
NHi	New-York Historical Society
NN	New York Public Library
Nc-Ar	North Carolina Department of Archives and History
NhHi	New Hampshire Historical Society
PHarH	Pennsylvania Historical and Museum Commission
PHi	Historical Society of Pennsylvania
PPAmP	American Philosophical Society
PPL	Library Company of Philadelphia
RiHi	Rhode Island Historical Society
WHi	State Historical Society of Wisconsin

Short Titles

- Adams, *Defence* John Adams, *A Defence of the Constitutions of Government of the United States of America* . . . (3 vols., London, 1787-1788).
- Allen, *Adams Diary* David Grayson Allen, et al., eds., *Diary of John Quincy Adams* (Cambridge, Mass., 1981-).
- Blackstone, *Commentaries* William Blackstone, *Commentaries on the Laws of England. In Four Books* (Re-printed from the British Copy, Page for Page with the Last Edition, 5 vols., Philadelphia, 1771-1772). Originally published in London from 1765 to 1769.
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Cross-references to Volumes of
The Documentary History of the Ratification of the Constitution

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

Calendar for the Years 1787-1788

1787

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1788

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American Newspapers, 1787-1788

SHORT TITLE LIST

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

CONNECTICUT

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

DELAWARE

Delaware Courant, Wilmington
Delaware Gazette, Wilmington

GEORGIA

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

MARYLAND

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

MASSACHUSETTS

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

NEW HAMPSHIRE

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

NEW JERSEY

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

NEW YORK

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

NORTH CAROLINA

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

SOUTH CAROLINA

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

VIRGINIA

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

VERMONT

Vermont Gazette, Bennington
Vermont Journal, Windsor

PENNSYLVANIA

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

RHODE ISLAND

Newport Herald
Newport Mercury
Providence Gazette
United States Chronicle, Providence

Chronology, 1786–1790

1786

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

1787

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

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

1788

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

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

1789

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

1790

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

Commentaries on the Constitution
Public and Private

238. Albany Gazette, 8 November¹

The happiness of a state, says a correspondent, consists not in its number or wealth, but in the good disposition, wise regulation and good conduct of its inhabitants. Hence,

That state is happy, whose laws and rulers are good, and its inhabitants industrious, frugal and in a just subordination. And,

That state is wretched and miserable, where pride, idleness and dissipation prevail, men and not laws govern, and the rulers are ignorant, or wicked.

A government without a directing and controuling power, is like a ship without master, pilot or rudder.

A government without faith, is a government without credit; and a government without credit, is a government without energy; and a government without energy, is no government at all. And,

A government too popular borders upon tyranny.

1. Reprints by 4 February 1788 (8): Vt. (1), N.H. (2), Mass. (1), Conn. (1), N.Y. (2), Md. (1).

**239. Brutus, Junior
New York Journal, 8 November**

The authorship of "Brutus, Junior" is uncertain. On 28 November Hugh Hughes asked fellow New York Antifederalist Charles Tillinghast "Are you not wrong as to the Author of Brutus-I supposed him to have been Brutus Junior, & Mr. A Y. [Abraham Yates] to have been the Author of Brutus" (CC:298. For "Brutus," see CC:178.). Almost identical passages and references to the same events appear in "Brutus, Junior" and Letters I and V of the "Federal Farmer" (CC:242).

"Brutus, Junior" was reprinted in the Philadelphia *Independent Gazetteer* on 14 November. Ten days later "Plain Truth," writing in the *Gazetteer* (RCS:Pa., 292-93), recommended that "Brutus, Junior" be read to answer the "two fallacious arguments" he said Federalists used to urge the adoption of the Constitution: (1) that the great men of the Constitutional Convention favored it and (2) that any sort of an efficient government was absolutely necessary no matter how despotic it might be. Another Antifederalist, Samuel Chase of Maryland, employed "Brutus, Junior" to refute the Federalist argument that anarchy and confusion would result if the new Constitution were not adopted (Bancroft Transcripts, NN).

MR. GREENLEAF, I have read with a degree of attention several publications which have lately appeared in favour of the new Constitution; and as far as I am able to discern—the arguments (if they can be so termed) of most weight, which are urged in its favour may be reduced to the two following:

1st. That the men who formed it, were wise and experienced; that they were an illustrious band of patriots, and had the happiness of their

country at heart; that they were four months deliberating on the subject, and therefore, it must be a perfect system.

2d. That if the system be not received, this country will be without any government, and of consequence, will be reduced to a state of anarchy and confusion, and involved in bloodshed and carnage; and in the end, a government will be imposed upon us, not the result of reason and reflection, but of force and usurpation.

As I do not find that either Cato or the Centinel, Brutus, or the Old Whig, or any other writer against this constitution, have undertaken a particular refutation of this new species of reasoning, I take the liberty of offering to the public, through the channel of your paper, the few following animadversions on the subject; and the rather, because I have discovered, that some of my fellow citizens have been imposed upon by it.

With respect to the first, it will be readily perceived, that it precludes all investigation of the merits of the proposed constitution, and leads to an adoption of the plan, without enquiring whether it be good or bad. For if we are to infer the perfection of this system from the characters and abilities of the men who formed it, we may as well determine to accept it without any enquiry as with.—A number of persons in this as well as the other states, have, upon this principle, determined to submit to it without even reading or knowing its contents.

But supposing the premisses from which this conclusion is drawn, to be just, it then becomes essential, in order to give validity to the argument, to enquire into the characters of those who composed this body, that we may determine whether we can be justified in placing such unbounded confidence in them.

It is an invidious task, to call in question the characters of individuals, especially of such as are placed in illustrious stations. But when we are required implicitly to submit our opinions to those of others, from a consideration that they are so wise and good as not to be liable to err, and that too in an affair which involves in it the happiness of ourselves and our posterity; every honest man will justify a decent investigation of characters in plain language.

It is readily admitted, that many individuals who composed this body, were men of the first talents and integrity in the union. It is at the same time, well known to every man, who is but moderately acquainted with the characters of the members, that many of them are possessed of high aristocratic ideas, and the most sovereign contempt of the common people; that not a few were strongly disposed in favour of monarchy; that there were some of no small talents and of great influence, of consummate cunning, and masters of intrigue, whom the war found poor, or in

embarrassed circumstances, and left with princely fortunes, acquired in public employment, who are at this day to account for many thousands of public money; that there were others who were young, ardent, and ambitious, who wished for a government corresponding with their feelings, while they were destitute of that experience which is the surest guide in political researches; that there were not a few who were gaping for posts of honour and emolument; these we find exulting in the idea of a change, which will divert places of honour, influence and emolument, into a different channel, where the confidence of the people, will not be necessary to their acquirement. It is not to be wondered at, that an assembly thus composed should produce a system liable to well founded objections, and which will require very essential alterations. We are told by one of themselves (Mr. Wilson of Philadelphia) the plan was matter of accommodation; and it is not unreasonable to suppose, that in this accommodation,¹ principles might be introduced which would render the liberties of the people very insecure.

I confess I think it of no importance, what are the characters of the framers of this government, and therefore should not have called them in question, if they had not been so often urged in print, and in conversation, in its favour. It ought to rest on its own intrinsic merit. If it is good, it is capable of being vindicated; if it is bad, it ought not to be supported. It is degrading to a freeman, and humiliating to a rational one, to pin his faith on the sleeve of any man, or body of men, in an affair of such momentous importance.

In answer to the second argument, I deny that we are in immediate danger of anarchy and commotions. Nothing but the passions of wicked and ambitious men, will put us in the least danger on this head: those who are anxious to precipitate a measure, will always tell us that the present is the critical moment; now is the time, the crisis is arrived, and the present minute must be seized. Tyrants have always made use of this plea; but nothing in our circumstances can justify it.

The country is in profound peace, and we are not threatened by invasion from any quarter: the governments of the respective states are in the full exercise of their powers; and the lives, the liberty, and property of individuals are protected: all present exigencies are answered by them. It is true, the regulation of trade and a competent provision for the payment of the interest of the public debt is wanting; but no immediate commotion will arise from these; time may be taken for calm discussion and deliberate conclusions. Individuals are just recovering from the losses and embarrassments sustained by the late war: industry and frugality are taking their station, and banishing from the community, idleness and prodigality. Individuals are lessening their private debts,

and several millions of the public debt is discharged by the sale of the western territory. There is no reason, therefore, why we should precipitately and rashly adopt a system, which is imperfect or insecure; we may securely deliberate and propose amendments and alterations. I know it is said we cannot change for the worse; but if we act the part of wise men, we shall take care that we change for the better: It will be labour lost, if after all our pains we are in no better circumstances than we were before.

If any tumults arise, they will be justly chargeable on those artful and ambitious men, who are determined to cram this government down the throats of the people, before they have time deliberately to examine it. All the measures of the leaders of this faction have tended to this point. In Congress they attempted to obtain a resolution to approve the constitution, without going into an examination of it.² In Pennsylvania, the chiefs of the party, who themselves were of the convention, that framed this system, within a few days after it dissolved, and before Congress had considered it, indecently brought forward a motion in their general assembly for recommending a convention; when a number of respectable men of that legislature, withdrew from the house, refusing to sanction with their presence, a measure so flagrantly improper, they procured a mob to carry a sufficient number of them by force to the house, to enable them to proceed on the business.³

In Boston, the printers have refused to print against this plan, and have been countenanced in it.⁴ In Connecticut, papers have been handed about for the people to sign, to support it, and the names of those who decline signing it, have been taken down in what was called, a black list, to intimidate them into a compliance, and this before the people had time to read and understand the meaning of the constitution.⁵ Many of the members of the convention, who were charged with other public business, have abandoned their duty, and hastened to their states to precipitate an adoption of the measure. The most unwearied pains has been taken, to persuade the legislatures to recommend conventions to be elected to meet at early periods, before an opportunity could be had to examine the constitution proposed; every art has been used to exasperate the people against those, who made objections to the plan. They have been told that the opposition is chiefly made by state officers, who expect to lose their places by the change, though the propagators of this falsehood, know, that very few of the state offices will be vacated by the new constitution, and are well apprized, that should it take place, it will give birth to a vast number of more lucrative and permanent appointments, which its principal advocates in every state are warmly in the pursuit of. Is it not extraordinary, that those men who are

predicting, that a rejection of this constitution will lead to every evil, which anarchy and confusion can produce, should at the same moment embrace and pursue with unabating industry, every measure in their power, to rouse the passions, and thereby preclude calm and dispassionate enquiry. It would be wise in them, however, to reflect in season that should public commotion take place, they will not only be answerable for the consequences, and the blood that may be shed, but that on such an event, it is more than probable the people will discern the advocates for their liberties, from those who are aiming to enslave them, and that each will receive their just deserts.

1. See CC:134.
2. See CC:95.
3. See CC:125.
4. See CC:131.

5. Oliver Wolcott, Sr., the lieutenant governor of Connecticut, "heard that it has been proposed to send out Subscription Papers to be signed by those who may be for and against the Constitution." He hoped that "such a Measure will not be carried into Execution" (to Oliver Wolcott, Jr., 8 October, CC:141). No such petitions have been located. The Philadelphia *Independent Gazetteer*, 21 January 1788, reported that "before the people [of Connecticut] could possibly have time scarcely to read the new constitution, they were compelled to sign to their perfect approbation of it, or be posted in a black list. . . ." The *Gazetteer* item was reprinted eight times by 10 March: Mass. (1), Conn. (4), N.Y. (1), Md. (2).

240. Cato IV

New York Journal, 8 November

This essay was ready for publication a week earlier, but was "unavoidably postponed, for want of room" (*New York Journal*, 1 November). For a detailed criticism of "Cato" IV's objections to the executive branch as outlined in the Constitution, see "Americanus" II, *New York Daily Advertiser*, 23 November. See also "Americanus" IV, *ibid.*, 6 December.

"Cato" IV was reprinted in the *New York Daily Advertiser* on 9 November and in a two-page supplement of the *Albany Gazette* on 17 November. For a discussion of the authorship, circulation, and impact of "Cato," see CC:103.

To the CITIZENS of the STATE of NEW-YORK.

Admitting, however, that the vast extent of America, together with the various other reasons which I offered you in my last number,¹ against the practicability of the just exercise of the new government are insufficient to convince you; still it is an undeniable truth, that its several parts are either possessed of principles, which you have heretofore considered as ruinous, and that others are omitted which you have established as fundamental to your political security, and must in their operation, I will venture to assert—fetter your tongues and minds, enchain your bodies, and ultimately extinguish all that is great and noble in man.

In pursuance of my plan, I shall begin with observations on the executive branch of this new system; and though it is not the first in order, as arranged therein, yet being the *chief*, is perhaps entitled by the rules of rank to the first consideration. The executive power as described in the 2d article, consists of a president and vice-president, who are to hold their offices *during* the term of four years; the same article has marked the manner and time of their election, and established the qualifications of the president; it also provides against the removal, death, or inability of the president and vice-president—regulates the salary of the president, delineates his duties and powers; and lastly, declares the causes for which the president and vice-president shall be removed from office.

Notwithstanding the great learning and abilities of the gentlemen who composed the convention, it may be here remarked with deference, that the construction of the first paragraph of the first section of the second article, is vague and inexplicit, and leaves the mind in doubt, as to the election of a president and vice-president, after the expiration of the election for the first term of four years—in every other case, the election of these great officers is expressly provided for; but there is no explicit provision for their election in case of the expiration of their offices, subsequent to the election which is to set this political machine in motion—no certain and express terms as in your state constitution, that *statedly* once in every four years, and as often as these offices shall become vacant, by expiration or otherwise, as is therein expressed, an election shall be held as follows, &c.—this inexplicitness perhaps may lead to an establishment for life.

It is remarked by Montesquieu, in treating of republics, that *in all magistracies, the greatness of the power must be compensated by the brevity of the duration; and that a longer time than a year, would be dangerous.*² It is therefore obvious to the least intelligent mind, to account why, great power in the hands of a magistrate, and that power connected, with a considerable duration, may be dangerous to the liberties of a republic—the deposit of vast trusts in the hands of a single magistrate, enables him in their exercise, to create a numerous train of dependants—this tempts his *ambition*, which in a republican magistrate is also remarked, *to be pernicious* and the duration of his office for any considerable time favours his views, gives him the means and time to perfect and execute his designs—*he therefore fancies that he may be great and glorious by oppressing his fellow citizens, and raising himself to permanent grandeur on the ruins of his country.*³—And here it may be necessary to compare the vast and important powers of the president, together with his continuance in office with the foregoing doctrine—his eminent magisterial situation will attach many adherents to him, and he will be surrounded by expectants and courtiers—his

power of nomination and influence on all appointments—the strong posts in each state comprised within his superintendance, and garrisoned by troops under his direction—his controul over the army, militia, and navy—the unrestrained power of granting pardons for treason, which may be used to screen from punishment, those whom he had secretly instigated to commit the crime, and thereby prevent a discovery of his own guilt—his duration in office for four years: these, and various other principles evidently prove the truth of the position—that if the president is possessed of ambition, he has power and time sufficient to ruin his country.

Though the president, during the sitting of the legislature, is assisted by the senate, yet he is without a constitutional council in their recess—he will therefore be unsupported by proper information and advice, and will generally be directed by minions and favorites, or a council of state will grow out of the principal officers of the great departments, the most dangerous council in a free country.

The ten miles square, which is to become the seat of government, will of course be the place of residence for the president and the great officers of state—the same observations of a great man will apply to the court of a president possessing the powers of a monarch, that is observed of that of a monarch—*ambition with idleness—baseness with pride—the thirst of riches without labour—aversion to truth—flattery—treason—perfidy—violation of engagements—contempt of civil duties—hope from the magistrates weakness; but above all, the perpetual ridicule of virtue*⁴—these, he remarks, are the characteristics by which the courts in all ages have been distinguished.

The language and the manners of this court will be what distinguishes them from the rest of the community, not what assimilates them to it, and in being remarked for a behaviour that shews they are not *meanly born*, and in adulation to people of fortune and power.

The establishment of a vice president is as unnecessary as it is dangerous. This officer, for want of other employment, is made president of the senate, thereby blending the executive and legislative powers, besides always giving to some one state, from which he is to come, an unjust pre-eminence.

It is a maxim in republics, that the representative of the people should be of their immediate choice; but by the manner in which the president is chosen he arrives to this office at the fourth or fifth hand, nor does the highest votes, in the way he is elected, determine the choice—for it is only necessary that he should be taken from the highest of five, who may have a plurality of votes.

Compare your past opinions and sentiments with the present proposed establishment, and you will find, that if you adopt it, that it will

lead you into a system which you heretofore reprobated as odious. Every American whig, not long since, bore his emphatic testimony against a monarchical government, though limited, because of the dangerous inequality that it created among citizens as relative to their rights and property; and wherein does this president, invested with his powers and prerogatives, essentially differ from the king of Great-Britain (save as to name, the creation of nobility and some immaterial incidents, the offspring of absurdity and locality) the direct prerogatives of the president, as springing from his political character, are among the following:—It is necessary, in order to distinguish him from the rest of the community, and enable him to keep, and maintain his court, that the compensation for his services; or in other words, his revenue should be such as to enable him to appear with the splendor of a prince; he has the power of receiving ambassadors from, and a great influence on their appointments to foreign courts; as also to make treaties, leagues, and alliances with foreign states, assisted by the senate, which when made, become the supreme law of the land: he is a constituent part of the legislative power; for every bill which shall pass the house of representatives and senate, is to be presented to him for approbation; if he approves of it, he is to sign it, if he disapproves, he is to return it with objections, which in many cases will amount to a compleat negative; and in this view he will have a great share in the power of making peace, coining money, &c. and all the various objects of legislation, expressed or implied in this Constitution: for though it may be asserted that the king of Great-Britain has the express power of making peace or war, yet he never thinks it prudent so to do without the advice of his parliament from whom he is to derive his support, and therefore these powers, in both president and king, are substantially the same: he is the generalissimo of the nation, and of course, has the command & controul of the army, navy and militia; he is the general conservator of the peace of the union—he may pardon all offences, except in cases of impeachment, and the principal fountain of all offices & employments. Will not the exercise of these powers therefore tend either to the establishment of a vile and arbitrary aristocracy, or monarchy? The safety of the people in a republic depends on the share or proportion they have in the government; but experience ought to teach you, that when a man is at the head of an elective government invested with great powers, and interested in his re-election, in what circle appointments will be made; by which means an *imperfect aristocracy* bordering on monarchy may be established.

You must, however, my countrymen, beware, that the advocates of this new system do not deceive you, by a fallacious resemblance between it and your own state government, which you so much prize; and if you

examine, you will perceive that the chief magistrate of this state, is your immediate choice, controuled and checked by a just and full representation of the people, divested of the prerogative of influencing war and peace, making treaties, receiving and sending embassies, and commanding standing armies and navies, which belong to the power of the confederation, and will be convinced that this government is no more like a true picture of your own, than an Angel of darkness resembles an Angel of light.

1. See "Cato" III, *New York Journal*, 25 October, CC:195.
2. *Spirit of Laws*, I, Book II, chapter III, 20.
3. *Ibid.*, Book VIII, chapter XVI, 177.
4. *Ibid.*, Book III, chapter V, 34.

241. Cincinnatus II: To James Wilson, Esquire New York Journal, 8 November

This essay, an answer to James Wilson's speech of 6 October (CC:134), was ready for publication earlier, but was "unavoidably postponed, for want of room," (*New York Journal*, 1 November). It was reprinted in the *Philadelphia Independent Gazetteer* on 16 November and in the *Providence Gazette* on 8 December. The first two paragraphs, unsigned by "Cincinnatus," were reprinted in the *Vermont Gazette* on 3 December.

For the authorship, circulation, and impact of "Cincinnatus," see CC:222.

Sir, I have proved, sir, that not only some power is given in the constitution to restrain, and even to subject the press, but that it is a power totally unlimited; and may certainly annihilate the freedom of the press, and convert it from being the palladium of liberty to become an engine of imposition and tyranny. It is an easy step from restraining the press to making it place the worst actions of government in so favorable a light, that we may groan under tyranny and oppression without knowing from whence it comes.

But you comfort us by saying,—"there is no reason to suspect so popular a privilege will be neglected." The wolf, in the fable, said as much to the sheep, when he was persuading them to trust him as their protector, and to dismiss their guardian dogs. Do you indeed suppose, Mr. Wilson, that if the people give up their privileges to these new rulers they will render them back again to the people? Indeed, sir, you should not trifle upon a question so serious—You would not have us to suspect any ill. If we throw away suspicion—to be sure, the thing will go smoothly enough, and we shall deserve to continue a free, respectable, and happy people. Suspicion shackles rulers and prevents good government. All great and honest politicians, *like yourself*, have reprobated it. Lord Mansfield is a great authority against it, and has often treated it as the worst of libels. But such men as Milton, Sidney, Locke, Montesquieu, and Trenchard, have thought it essential to the preservation of liberty

against the artful and persevering encroachments of those with whom power is trusted. You will pardon me, sir, if I pay some respect to these opinions, and wish that the freedom of the press may be *previously* secured as a *constitutional* and *unalienable right*, and not left to the precarious care of popular privileges which may or may not influence our new rulers. You are fond of, and happy at, quaint expressions of this kind in your observation—that a formal declaration would have done harm, by implying, that some degree of power was given when we undertook to define its extent. This thought has really a brilliancy in it of the first water. But permit me, sir, to ask, why any saving clause was admitted into this constitution, when you tell us, every thing is reserved that is not expressly given? Why is it said in sec. 9th, “The migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by Congress, prior to the year, 1808.” There is no power expressly given to the Congress to prohibit migrations and importations. By your doctrine then they could have none, and it was, according to your own position, nugatory to declare they should not do it. Which are we to believe, sir,—you or the constitution? The text, or the comment. If the former, we must be persuaded, that in the contemplation of the framers of the constitution implied powers were given, otherwise the exception would have been an absurdity. If we listen to you we must affirm it to be a distinctive characteristic of the constitution, that—“what is not expressly given is reserved.” Such are the inconsistencies into which men over ingenuous, like yourself, are betrayed in advocating a bad cause. Perhaps four months more consideration of the subject, would have rendered you more guarded.

I come now to the consideration of the trial by jury in civil cases. And here you have, indeed, made use of your professional knowledge—But you did not tell the people that your profession was always to advocate one side of a question—to place it in the most favorable, though false, light—to rail where you could not reason—to pervert where you could not refute—and to practice every fallacy on your hearers—to mislead the understanding and pervert judgment. In right of this professional practice, you make a refutable objection of your own, and then triumphantly refute it. The objection you impute to your opponents is—the trial by jury is abolished in civil cases. This you call a disingenuous form—and truly it is very much so on your part and of your own fabrication. The objection in its true form is, that—trial by jury is not secured in civil cases. To this objection, you could not possibly give an answer; you therefore ingenuously coined one to which you could make a plausible reply. We expected, and we had a right to expect, that such an inestimable privilege as this would have been secured—that it would not

have been less dependent on the arbitrary exposition of future judges, who, when it may suit the arbitrary views of the ruling powers will explain it away at pleasure. We may expect Tressellians, Jeffrees's, and Mansfield's here, and if they should not be native with us, they may possibly be imported.¹

But, if taken even on your own ground it is not so clearly tenable. In point of legal construction, the trial by jury does seem to be taken away in civil cases. It is a law maxim, that the expression of one part is an exclusion of the other. In legal construction therefore, the reservation of trial by jury in criminal, is an exclusion of it in civil cases. Why else should it be mentioned at all? Either it followed of course in both cases, or it depended on being stipulated. If the first, then the stipulation was nugatory—if the latter, then it was in part given up. Therefore, either we must suppose the Convention did a nugatory thing; or that by the express mention of jury in criminal, they meant to exclude it in civil cases. And that they did intend to exclude it, seems the more probable, as in the appeal they have taken special care to render the trial by jury of no effect by expressly making the court judges both of law and fact. And though this is subjected to the future regulation of Congress, yet it would be absurd to suppose, that the regulation meant its annihilation. We must therefore conclude, that in appeals the trial by jury is expressly taken away, and in original process it is by legal implication taken away in all civil cases.

Here then I must repeat—that you ought to have stated fairly to the people, that the trial by jury was not secured; that they might know what, it was they were to consent to; and if knowing it, they consented, the blame could not fall on you. Before they decide, however, I will take leave to lay before them the opinion of that great and revered Judge Lord Camden,² whose authority is, I hope, at least equal to that of Mr. Wilson.—“There is, says he, scarce any matter of challenge allowed to the judge, but several to the jurors, and many of them may be removed without any reason alledged. This seems to promise as much impartiality as human nature will admit, and absolute perfection is not attainable, I am afraid, either in judge or jury or any thing else. The trial by our country, is in my opinion, the great bulwark of freedom, and for certain, the admiration of all foreign writers and nations. The last writer of any distinguished note, upon the principles of government, the celebrated Montesquieu, is in raptures with this peculiar perfection in the English policy. From juries running riot, if I may say so, and acting wildly at particular seasons, I cannot conclude, like some Scottish Doctors of our law and constitutions, that their power should be lessened. This would, to use the words of the wise, learned, and intrepid Lord

Chief Justice Vaughan,³ be—a strange newfangled conclusion, after a trial so celebrated for so many hundreds of years.”

Such are the opinions of Lord Camden and Vaughan, and multitudes of the first names, both English and other foreigners might be cited, who bestow unbounded approbation on this best of all human modes for protecting, life, liberty, and property.

I own then, it alarms me, when I see these Doctors of our constitutions cutting in twain this sacred shield of public liberty and justice. Surely my countrymen will think a little before they resign this strong hold of freedom. Our state constitutions have held it sacred in all its parts. They have anxiously secured it. But that these may not shield it from the intended destruction in the new constitution, it is therein as anxiously provided, that “this constitution, and the laws of the United States, which shall be made in pursuance thereof; or which shall be made under the authority of the United States, shall be the supreme laws of the land; and the judges in every state, shall be bound thereby; any thing in the constitution and laws of any state, to the contrary notwithstanding.”

Thus this new system, with one sweeping clause, bears down every constitution in the union, and establishes its arbitrary doctrines, supreme and paramount to all the bills and declarations of rights, in which we vainly put our trust, and on which we rested the security of our often declared, unalienable liberties. But I trust the whole people of this country, will unite, in crying out, as did our sturdy ancestors of old—*Nolumus leges anglicæ mutari.*—We will not part with our birthright.

1. Robert Tresilian (d. 1388), George Jeffreys (1648–1689), and the Earl of Mansfield (William Murray, 1705–1793) were all prominent English judges, notorious for conducting illegal proceedings and for rendering unjust, harsh, and brutal decisions. For more on Mansfield, see CC:132, note 3.

2. Charles Pratt (1714–1794), the first Earl Camden and Chief Justice of the Court of Common Pleas, instructed the jury that general warrants were unconstitutional in the case of *Wilkes v. Wood* in 1763. In the House of Lords he had opposed, on constitutional grounds, the taxing of the American colonies and the passage of the Stamp Act.

3. John Vaughan (1603–1674) was appointed Lord Chief Justice of the Court of Common Pleas in 1668.

242. Federal Farmer

Letters to the Republican, 8 November

One of the most significant publications of the ratification debate was a forty-page pamphlet entitled *Observations Leading to a Fair Examination of the System of Government Proposed by the Late Convention; and to Several Essential and Necessary Alterations in It. In a Number of Letters from the Federal Farmer to the Republican*. The pamphlet consists of five numbered letters dated 8, 9, 10, 12, and 13 October. According to a prefatory “Advertisement” in the supplement (see last paragraph below) to the *Letters*, “Four editions, (and several thousands)” of the *Letters* were

“in a few months printed and sold in the several states.” A newspaper advertisement for the supplement stated that the first set of *Letters* had “undergone several impressions in the different states, and several thousands of them have been sold” (*New York Journal* and *New York Packet*, 2 May 1788). Copies of three editions have been located. Since the place of publication and the name of the printer do not appear on the title pages of any of the extant copies, it is a matter of conjecture as to when, where, and by whom each edition was published. Publication of these editions has generally been attributed to Thomas Greenleaf of the *New York Journal*. However, a detailed analysis of the texts of the editions, of the advertisements offering the pamphlets for sale, and of other evidence suggests that two of the editions were published by one printer and that the third edition was published by someone else.

On 8 November the weekly *New York Journal* advertised that the *Letters* was “Just received, and to be SOLD, at T. Greenleaf’s Printing-Office. And by Mr. [Robert] Hodge, and T.[Thomas] Allen, Book-sellers, in Queen-street, and at Mr. Loudon’s, Printing-Office, Water-street.” The next day the semiweekly *New York Packet*, printed by Samuel Loudon and his son John, advertised the *Letters* as “Just Published, and to be Sold by the Printers hereof, And by most of the Printers and Booksellers in this city.” The pamphlet was probably printed a few days before both advertisements because, by 9 November, James Kent read the *Letters* in Poughkeepsie, about eighty-five miles north of New York City (CC:246). In transmitting the *Letters* to a friend in Philadelphia on 24 November, New York City Antifederalist Charles Tillinghast wrote that the pamphlet had been “lately published here” (to Timothy Pickering, CC:288-A).

The first edition of the *Letters*, which was misdated 1777 on the title page, was filled with errors (Evans 20454). Consequently, a corrected edition was printed, apparently from the same forms (Evans 20455). This corrected edition was printed before 14 November because, on that day, the Poughkeepsie *Country Journal* began reprinting the *Letters* with the corrections. A third edition—“RE-PRINTED BY ORDER OF A SOCIETY OF GENTLEMEN”—was published incorporating the corrections made in the second edition, as well as some additional changes (Evans 20456). There are also typographical differences to indicate that the third edition was struck off by another printer. Only one advertisement directly referred to this edition. On 23 November the Philadelphia *Independent Gazetteer* announced: “Just Come to Hand, AND TO BE SOLD BY Robert Aitken, Bookseller, . . . Printed by Order of a Society of Gentlemen.” A fourth edition of the *Letters* was probably published by Edward E. Powars of the Boston *American Herald* in early January 1788, but no copies are extant (see below).

The authorship of the *Letters* has long been attributed to Richard Henry Lee. This attribution was first made by “New England,” a Federalist newspaper essay that accused Lee of writing the *Letters* with the assistance of “several persons of reputed good sense in New-York” (*Connecticut Courant*, 24 December, CC:372). “New England,” however, offered no evidence for Lee’s authorship. Four Massachusetts newspaper items derived from “New England” also identified Lee as the “Federal Farmer” (*Massachusetts Gazette*, 1 January 1788 [CC:390 E-F]; *Massachusetts Centinel*, 2 January [CC:390-G]; *Boston American Herald*, 7 January [CC:390-H]).

Private letters offer few clues as to the authorship of the *Letters*. On 28 November 1787 Antifederalist Hugh Hughes of Dutchess County, N.Y., wrote Charles Tillinghast that “The federal Farmer, I think I am sure of, as one of the *Letters* contains some Part of a Conversation I once had, when I spent an Evening with

him—Perhaps this may bring him to your Memory—if not, please to observe the first Part of the 2nd Paragraph in the 7th Page, and you will recollect, I expect, as I told you that he was perfectly in Sentiment with me on that Subject—I think he has great Merit, but not as much as he is capable of meriting—But, perhaps, he reserves himself for another Publication; if so, it may be all very right” (CC:298). (For another comment by Hughes, see “A Countryman” VI, *New York Journal*, 14 February 1788.)

Recently scholars have effectively challenged Lee’s authorship, but no one has suggested a likely substitute. For the debate over the authorship of the *Letters*, see William Winslow Crosskey, *Politics and the Constitution in the History of the United States* (Chicago, 1953), II, 1300; Gordon S. Wood, “The Authorship of the *Letters from the Federal Farmer*,” *William and Mary Quarterly*, 3rd series, XXXI (1974), 299–308; Steven R. Boyd, “The Impact of the Constitution on State Politics: New York as a Test Case,” in James Kirby Martin, ed., *The Human Dimensions of Nation Making, Essays on Colonial and Revolutionary America* (Madison, Wis., 1976), 276n; Walter Hartwell Bennett, ed., *Letters from the Federal Farmer to the Republican* (University, Ala., 1978), xiv–xx; and Herbert J. Storing, ed., *The Complete Anti-Federalist* (7 vols., Chicago, 1981), II, 215–16.

Most historians have been so preoccupied with the question of Lee’s authorship that they have ignored “The Republican”—the person to whom the letters were addressed. In New York politics, Governor George Clinton, one of the state’s Antifederalist leaders, was known as “The Republican” by at least two of his supporters (Charles Tillinghast to Hugh Hughes, 27–28 January 1788, Hughes Papers, DLC).

The *Letters* circulated in New York for months. On 8 November almost identical passages and references to similar events in the “Federal Farmer’s” Letters I and V appeared in “Brutus, Junior,” in the *New York Journal* (CC:239). The *New York Packet* ran its 9 November advertisement for the pamphlet weekly until 30 November, while the *New York Journal*, which became a daily on 19 November, published six advertisements, each different from the others, a total of about fifty times by mid-February 1788. On 22 December the *Journal* announced that the *Letters* had been “Just PUBLISHED, and to be SOLD. . . .” This advertisement possibly indicates that a new printing had just become available. (A variant copy of the *Letters* in the Rare Book Room of the New York Public Library, with the letter “s” dropped from the word “Observations” on the title page, was possibly part of a new printing of the *Letters*. Except for this change on the title page, this printing is identical to the second edition of the *Letters* mentioned above.)

At the request of “A CUSTOMER” the Poughkeepsie *Country Journal* reprinted the entire pamphlet in weekly installments from 14 November to 2 January 1788. Addressing the *Journal*’s printer, “A CUSTOMER” stated: “It is my opinion that every well-written piece in favor or against the new Constitution, ought to be laid before the public. You have published several pieces on both sides, and being sensible of your impartiality, the republication of the following letters cannot but afford general satisfaction.” On 11 January 1788 Abraham Van Vechten of Johnstown, N.Y., wrote Henry Oothoudt and Jeremiah Van Rensselaer of Albany thanking them for a copy of the *Letters* that they had sent him on 2 January. He declared that he would deliver it to some “Friends here for their perusal” (James T. Mitchell Autograph Collection, PHi). A month later a Federalist wrote from Albany that the *Letters*, “Centinel,” and other Antifederalist publications “are scattered all over the County” (William North to Henry Knox, 13 February, Knox Papers, MHi).

On 23 November Philadelphia Antifederalist John Nicholson sent the *Letters to Federalist* George Latimer, then serving as a Philadelphia delegate in the recently convened Pennsylvania Convention (Mfm:Pa. 240). On 24 November New York Antifederalist Charles Tillinghast sent the pamphlet to Federalist Timothy Pickering who was also a delegate in the Pennsylvania Convention (CC:288-A). Meanwhile, the Philadelphia *Independent Gazetteer* ran Robert Aitken's advertisement on 23, 26, and 28 November. Between 27 and 30 November Aitken sold 121 pamphlets to Nicholson and three other Philadelphia Antifederalist leaders—Nicholson (60), James Hutchinson (25), Alexander Boyd (24), and Edward Pole (12) (Robert Aitken Wastebook, 1771–1802, PPL). These leaders presumably distributed their purchases throughout the state as they had done before with other Antifederalist literature.

By mid-December the *Letters* appeared in Connecticut. Jeremiah Wadsworth of Hartford reported on 16 December that "A Pamphlet is circulateing here—Observations &c Signed ye Federal Farmer—written with Art & tho by no means unanswerable it is calculated to do much harm—it came from New York under cover" for known and suspected opponents of the Constitution (to Rufus King, CC: 283-E). "New England" charged that John Lamb had sent the pamphlets (CC:372). On 15 January 1788 Antifederalist Hugh Ledlie of Hartford wrote Lamb that he had heard that some members of the Connecticut Convention had made "sly, mischievous insinuations" that the money Lamb received as collector of the New York impost enabled him and others "to write the foederal farmer & other false Libels and send them into this & the Neighbouring States." Ledlie wrote that many of the pamphlets sent to Connecticut had gotten "into the wrong hands" and had been "secreted, burnt and distributed amongst" Federalists "in order to torture ridicule & make shrewd remarks" (RCS:Conn., 576, 578-79).

By early January 1788 the *Letters* began circulating in Boston. On 28 December 1787 a correspondent in the *Massachusetts Gazette* stated that "A flaming anti-federal pamphlet" would soon appear in Boston and would "be circulated throughout the state" (CC:390-A). Three days later Edward E. Powars announced in his weekly *Boston American Herald* that the *Letters* would be for sale at his office on Wednesday, 2 January 1788 (CC:390-B). Powars was harshly criticized in other Boston newspapers for his announcement that the *Letters* would be "re-usherred into existance" (*Massachusetts Gazette*, 1 January, CC:390 C-D); while a correspondent from Cambridge expressed surprise that Samuel Adams "should attempt to divide and distract our councils, by encouraging the *republication* of RICHARD H. LEE's hacknied trumpery" (*ibid.*, CC:390-E). Three days after the scheduled Boston release of the pamphlet, Federalist printer Benjamin Russell reprinted "New England" in his *Massachusetts Centinel* to offset the effects of the *Letters*. Powars responded on 7 January that Federalists resorted to "*personal detraction*" because they were "unable to answer the sound reasoning and weighty objections to the New System of Government" contained in the *Letters* (CC: 390-H). In another statement on 7 January, Powars declared triumphantly: "'Tis finished,' 'tis done! And may be PURCHASED Of EDW. E. POWARS, . . . A Pamphlet, entitled. . . . *Although the above Pamphlet is not bulky, nor yet over 'wordy,' it breathes the pure, uncontaminated air of Republicanism, as well as the celebrated spirit of the year 1775. It is written coolly and dispassionately, taking Reason for its guide, and solid argument for its basis.—It gives 'a sea' of sentiment in '40 pages of octavo.—But it is needless to speak its praises in an advertisement—Purchase, and read for yourselves, ye Patriots of Columbia!*" (CC:390-I). Powars also advertised the sale of the "Federal Farmer" in the *American Herald* on 21 and 28 January and at the end of his

pamphlet reprint edition of the "Dissent of the Minority of the Pennsylvania Convention" (CC:353), which was published in late January or early February.

On 1 February, about a week before the Massachusetts Convention adjourned, the *Massachusetts Gazette* printed two excerpts from the *Letters* upon the request of a reader, who declared that he no longer supported the Constitution after hearing the Convention debates and reading the *Letters*. On 18 February these excerpts were reprinted in the *Newport Mercury*. (See footnotes 3 and 23 below.)

The *Letters* from the "Federal Farmer" met with a mixed response from Federalists. "Publius" admitted that the "Federal Farmer" was the "most plausible" of the Antifederalists to appear in print (*The Federalist* 68, New York *Independent Journal*, 12 March 1788). Edward Carrington of Virginia, commenting on the *Letters* and the *Additional Letters* printed in May 1788 (see last paragraph below), declared that "These letters are reputed the best of any thing that has been written" against the Constitution (to Thomas Jefferson, 9 June 1788, Boyd, XIII, 245). James Kent of New York wrote that the Constitution had "considerable Defects" and that the "Federal Farmer" had "illustrated those Defects in a candid & rational manner" (to Nathaniel Lawrence, 9 November 1787, CC:246). The reviewer of the *Letters* and the *Additional Letters* in the *New York American Magazine* of May 1788 stated that the "Federal Farmer" wrote "with more candor and good sense" than most opponents of the Constitution even though his arguments wanted method. The reviewer, probably Noah Webster, also challenged the "Federal Farmer" on several points. In general, however, Federalists published few rebuttals to the *Letters*. (See "Cato," *Poughkeepsie Country Journal*, 19 December, supplement; and "Curtiopolis," *New York Daily Advertiser*, 18 January 1788.)

One Federalist, however, did write a point-by-point refutation. On 24 December, a month after Charles Tillinghast had sent the *Letters* to him, Timothy Pickering began writing an eighteen-page letter refuting the "Federal Farmer's" arguments (CC:288-C). A month later, on 28 January 1788, Tillinghast sent Hugh Hughes a copy of Pickering's letter, stating that he believed Pickering wanted it published. Tillinghast, however, refused to submit the letter for publication.

An Additional Number of Letters from the Federal Farmer . . . was advertised in New York in early May 1788 (Evans 21197. See *Commentaries on the Constitution.*).

LETTER I.

OCTOBER 8th, 1787.

DEAR SIR, My letters to you last winter, on the subject of a well-balanced national government for the United States, were the result of free enquiry; when I passed from that subject to enquiries relative to our commerce, revenues, past administration, &c. I anticipated the anxieties I feel, on carefully examining the plan of government proposed by the convention. It appears to be a plan retaining some federal features; but to be the first important step, and to aim strongly to one consolidated government of the United States. It leaves the powers of government, and the representation of the people, so unnaturally divided between the general and state governments, that the operations of our system must be very uncertain. My uniform federal attachments, and the interest I have in the protection of property, and a steady execution of the laws, will convince you, that, if I am under any bias at it,¹ it is

in favor of any general system which shall promise those advantages. The instability of our laws increase my wishes for firm and steady government; but then, I can consent to no government, which, in my opinion, is not calculated equally to preserve the rights of all orders of men in the community. My object has been to join with those who have endeavoured to supply the defects in the forms of our governments by a steady and proper administration of them. Though I have long apprehended that fraudulent debtors, and embarrassed men, on the one hand, and men, on the other, unfriendly to republican equality, would produce an uneasiness among the people, and prepare the way, not for cool and deliberate reforms in the governments, but for changes calculated to promote the interests of particular orders of men. Acquit me, sir, of any agency in the formation of the new system; I shall be satisfied with seeing, if it should be adopted, a prudent administration. Indeed I am so much convinced of the truth of Pope's maxim, that—"That which is best administered is best,"² that I am much inclined to subscribe to it from experience. I am not disposed to unreasonably contend about forms. I know our situation is critical, and it behoves us to make the best of it. A federal government of some sort is necessary. We have suffered the present to languish; and whether the confederation was capable or not originally of answering any valuable purposes, it is now but of little importance. I will pass by the men, and states, who have been particularly instrumental in preparing the way for a change, and, perhaps, for governments not very favourable to the people at large. A constitution is now presented, which we may reject, or which we may accept, with or without amendments; and to which point we ought to direct our exertions, is the question. To determine this question, with propriety, we must attentively examine the system itself, and the probable consequences of either step. This I shall endeavour to do, so far as I am able, with candour and fairness; and leave you to decide upon the propriety of my opinions, the weight of my reasons, and how far my conclusions are well drawn. Whatever may be the conduct of others, on the present occasion, I do not mean, hastily and positively to decide on the merits of the constitution proposed. I shall be open to conviction, and always disposed to adopt that which, all things considered, shall appear to me to be most for the happiness of the community. It must be granted, that if men hastily and blindly adopt a system of government, they will as hastily and as blindly be led to alter or abolish it; and changes must ensue, one after another, till the peaceable and better part of the community will grow weary with changes, tumults and disorders, and be disposed to accept any government, however despotic, that shall promise stability and firmness.

The first principal question that occurs, is, Whether, considering our situation, we ought to precipitate the adoption of the proposed constitution? If we remain cool and temperate, we are in no immediate danger of any commotions; we are in a state of perfect peace, and in no danger of invasions; the state governments are in the full exercise of their powers; and our governments answer all present exigencies, except the regulation of trade, securing credit, in some cases, and providing for the interest, in some instances, of the public debts; and whether we adopt a change, three or nine months hence, can make but little odds with the private circumstances of individuals; their happiness and prosperity, after all, depend principally upon their own exertions. We are hardly recovered from a long and distressing war: The farmers, fishermen, &c. have not yet fully repaired the waste made by it. Industry and frugality are again assuming their proper station. Private debts are lessened, and public debts incurred by the war, have been, by various ways, diminished; and the public lands have now become a productive source for diminishing them much more. I know uneasy men, who wish very much to precipitate, do not admit all these facts; but they are facts well known to all men who are thoroughly informed in the affairs of this country. It must, however, be admitted, that our federal system is defective, and that some of the state governments are not well administered; but, then, we impute to the defects in our governments, many evils and embarrassments which are most clearly the result of the late war. We must allow men to conduct on the present occasion, as on all similar one's. They will urge a thousand pretences to answer their purposes on both sides. When we want a man to change his condition, we describe it as miserable, wretched, and despised; and draw a pleasing picture of that which we would have him assume. And when we wish the contrary, we reverse our descriptions. Whenever a clamor is raised, and idle men get to work, it is highly necessary to examine facts carefully, and without unreasonably suspecting men of falshood, to examine, and enquire attentively, under what impressions they act. It is too often the case in political concerns, that men state facts not as they are, but as they wish them to be; and almost every man, by calling to mind past scenes, will find this to be true.

Nothing but the passions of ambitious, impatient, or disorderly men, I conceive, will plunge us into commotions, if time should be taken fully to examine and consider the system proposed. Men who feel easy in their circumstances, and such as are not sanguine in their expectations relative to the consequences of the proposed change, will remain quiet under the existing governments. Many commercial and monied men, who are uneasy, not without just cause, ought to be respected;

and, by no means, unreasonably disappointed in their expectations and hopes; but as to those who expect employments under the new constitution; as to those weak and ardent men who always expect to be gainers by revolutions, and whose lot it generally is to get out of one difficulty into another, they are very little to be regarded: and as to those who designedly avail themselves of this weakness and ardor, they are to be despised. It is natural for men, who wish to hasten the adoption of a measure, to tell us, now is the crisis—now is the critical moment which must be seized, or all will be lost: and to shut the door against free enquiry, whenever conscious the thing presented has defects in it, which time and investigation will probably discover. This has been the custom of tyrants and their dependants in all ages. If it is true, what has been so often said, that the people of this country cannot change their condition for the worse, I presume it still behoves them to endeavour deliberately to change it for the better. The fickle and ardent, in any community, are the proper tools for establishing despotic government. But it is deliberate and thinking men, who must establish and secure governments on free principles. Before they decide on the plan proposed, they will enquire whether it will probably be a blessing or a curse to this people. >³

The present moment discovers a new face in our affairs. Our object has been all along, to reform our federal system, and to strengthen our governments—to establish peace, order and justice in the community—but a new object now presents. The plan of government now proposed, is evidently calculated totally to change, in time, our condition as a people. Instead of being thirteen republics, under a federal head, it is clearly designed to make us one consolidated government. Of this, I think, I shall fully convince you, in my following letters on this subject. This consolidation of the states has been the object of several men in this country for some time past. Whether such a change can ever be effected in any manner; whether it can be effected without convulsions and civil wars; whether such a change will not totally destroy the liberties of this country—time only can determine.

To have a just idea of the government before us, and to shew that a consolidated one is the object in view, it is necessary not only to examine the plan, but also its history, and the politics of its particular friends.

The confederation was formed when great confidence was placed in the voluntary exertions of individuals, and of the respective states; and the framers of it, to guard against usurpation, so limited and checked the powers, that, in many respects, they are inadequate to the exigencies of the union. We find, therefore, members of congress urging alterations in the federal system almost as soon as it was adopted. It was early

proposed to vest congress with powers to levy an impost, to regulate trade, &c.⁴ but such was known to be the caution of the states in parting with power, that the vestment, even of these, was proposed to be under several checks and limitations. During the war, the general confusion, and the introduction of paper money, infused in the minds of people vague ideas respecting government and credit. We expected too much from the return of peace, and of course we have been disappointed. Our governments have been new and unsettled; and several legislatures, by making tender, suspension, and paper money laws, have given just cause of uneasiness to creditors. By these and other causes, several orders of men in the community have been prepared, by degrees, for a change of government; and this very abuse of power in the legislatures, which, in some cases, has been charged upon the democratic part of the community, has furnished aristocratical men with those very weapons, and those very means, with which, in great measure, they are rapidly effecting their favourite object. And should an oppressive government be the consequence of the proposed change, posterity may reproach not only a few overbearing, unprincipled men, but those parties in the states which have misused their powers.

The conduct of several legislatures, touching paper money, and tender laws, has prepared many honest men for changes in government, which otherwise they would not have thought of—when by the evils, on the one hand, and by the secret instigations of artful men, on the other, the minds of men were become sufficiently uneasy, a bold step was taken, which is usually followed by a revolution, or a civil war. A general convention for mere commercial purposes was moved for—the authors of this measure saw that the people’s attention was turned solely to the amendment of the federal system; and that, had the idea of a total change been started, probably no state would have appointed members to the convention. The idea of destroying, ultimately, the state government, and forming one consolidated system, could not have been admitted—a convention, therefore, merely for vesting in congress power to regulate trade, was proposed. This was pleasing to the commercial towns; and the landed people had little or no concern about it. September, 1786, a few men from the middle states met at Annapolis, and hastily proposed a convention to be held in May, 1787, for the purpose, generally, of amending the confederation—this was done before the delegates of Massachusetts, and of the other states arrived—still not a word was said about destroying the old constitution, and making a new one—The states still unsuspecting, and not aware that they were passing the Rubicon, appointed members to the new convention, for the sole and express purpose of revising and amending the confederation⁵—and,

probably, not one man in ten thousand in the United States, till within these ten or twelve days, had an idea that the old ship was to be destroyed, and he put to the alternative of embarking in the new ship presented, or of being left in danger of sinking—The States, I believe, universally supposed the convention would report alterations in the confederation, which would pass an examination in congress, and after being agreed to there, would be confirmed by all the legislatures, or be rejected. Virginia made a very respectable appointment, and placed at the head of it the first man in America:—In this appointment there was a mixture of political characters; but Pennsylvania appointed principally those men who are esteemed aristocratical.⁶ Here the favourite moment for changing the government was evidently discerned by a few men, who seized it with address. Ten other states appointed, and tho' they chose men principally connected with commerce and the judicial department, yet they appointed many good republican characters—had they all attended we should now see, I am persuaded, a better system presented. The non-attendance of eight or nine men, who were appointed members of the convention, I shall ever consider as a very unfortunate event to the United States.⁷—Had they attended, I am pretty clear that the result of the convention would not have had that strong tendency to aristocracy now discernable in every part of the plan. There would not have been so great an accumulation of powers, especially as to the internal police of the country, in a few hands, as the constitution reported proposes to vest in them—the young visionary men, and the consolidating aristocracy, would have been more restrained than they have been. Eleven states⁸ met in the convention, and after four months close attention, presented the new constitution, to be adopted or rejected by the people. The uneasy and fickle part of the community may be prepared to receive any form of government; but, I presume, the enlightened and substantial part will give any constitution, presented for their adoption, a candid and thorough examination: and silence those designing or empty men, who weakly and rashly attempt to precipitate the adoption of a system of so much importance—We shall view the convention with proper respect—and, at the same time, that we reflect there were men of abilities and integrity in it, we must recollect how disproportionably the democratic and aristocratic parts of the community were represented.—Perhaps the judicious friends and opposers of the new constitution will agree, that it is best to let it rest solely on its own merits, or be condemned for its own defects.

In the first place, I shall premise, that the plan proposed, is a plan of accommodation—and that it is in this way only, and by giving up a part of our opinions, that we can ever expect to obtain a government founded

in freedom and compact. This circumstance candid men will always keep in view, in the discussion of this subject.

The plan proposed appears to be partly federal, but principally however, calculated ultimately to make the states one consolidated government.

The first interesting question, therefore, suggested, is, how far the states can be consolidated into one entire government on free principles. In considering this question extensive objects are to be taken into view, and important changes in the forms of government to be carefully attended to in all their consequences. The happiness of the people at large must be the great object with every honest statesman, and he will direct every movement to this point. If we are so situated as a people, as not to be able to enjoy equal happiness and advantages under one government, the consolidation of the states cannot be admitted.

There are three different forms of free government under which the United States may exist as one nation; and now is, perhaps, the time to determine to which we will direct our views. 1. Distinct republics connected under a fœderal head. In this case the respective state governments must be the principal guardians of the peoples rights, and exclusively regulate their internal police; in them must rest the balance of government. The congress of the states, or federal head, must consist of delegates amenable to, and removeable by the respective states: This congress must have general directing powers; powers to require men and monies of the states; to make treaties; peace and war; to direct the operations of armies, &c. Under this federal modification of government, the powers of congress would be rather advisory or recommendatory than coercive. 2. We may do away the several state governments, and form or consolidate all the states into one entire government, with one executive, one judiciary, and one legislature, consisting of senators and representatives collected from all parts of the union: In this case there would be a compleat consolidation of the states. 3. We may consolidate the states as to certain national objects, and leave them severally distinct independent republics, as to internal police generally. Let the general government consist of an executive, a judiciary and balanced legislature, and its powers extend exclusively to all foreign concerns, causes arising on the seas, to commerce, imports, armies, navies, Indian affairs, peace and war, and to a few internal concerns of the community; to the coin, post-offices, weights and measures, a general plan for the militia, to naturalization, *and, perhaps to bankruptcies*, leaving the internal police of the community, in other respects, exclusively to the state governments; as the administration of justice in all causes arising internally, the laying and collecting of internal taxes, and the forming

of the militia according to a general plan prescribed. In this case there would be a compleat consolidation, *quoad* certain objects only.

Touching the first, or federal plan, I do not think much can be said in its favor: The sovereignty of the nation, without coercive and efficient powers to collect the strength of it, cannot always be depended on to answer the purposes of government; and in a congress of representatives of foreign states, there must necessarily be an unreasonable mixture of powers in the same hands.

As to the second, or compleat consolidating plan, it deserves to be carefully considered at this time by every American: If it be impracticable, it is a fatal error to model our governments, directing our views ultimately to it.

The third plan, or partial consolidation, is, in my opinion, the only one that can secure the freedom and happiness of this people. I once had some general ideas that the second plan was practicable, but from long attention, and the proceedings of the convention, I am fully satisfied, that this third plan is the only one we can with safety and propriety proceed upon. Making this the standard to point out, with candour and fairness, the parts of the new constitution which appear to be improper, is my object. The convention appears to have proposed the partial consolidation evidently with a view to collect all powers ultimately, in the United States into one entire government; and from its views in this respect, and from the tenacity, of the small states to have an equal vote in the senate, probably originated the greatest defects in the proposed plan.

Independent of the opinions of many great authors, that a free elective government cannot be extended over large territories, a few reflections must evince, that one government and general legislation alone never can extend equal benefits to all parts of the United States: Different laws, customs, and opinions exist in the different states, which by a uniform system of laws would be unreasonably invaded. The United States contain about a million of square miles, and in half a century will, probably, contain ten millions of people; and from the center to the extremes is about 800 miles.

Before we do away the state governments, or adopt measures that will tend to abolish them, and to consolidate the states into one entire government several principles should be considered and facts ascertained:—These, and my examination into the essential parts of the proposed plan, I shall pursue in my next.

LETTER II.

OCTOBER 9, 1787.

DEAR SIR, The essential parts of a free and good government are a

full and equal representation of the people in the legislature, and the jury trial of the vicinage in the administration of justice—a full and equal representation, is that which possesses the same interests, feelings, opinions, and views the people themselves would were they all assembled—a fair representation, therefore, should be so regulated, that every order of men in the community, according to the common course of elections, can have a share in it—in order to allow professional men, merchants, traders, farmers, mechanics, &c. to bring a just proportion of their best informed men respectively into the legislature, the representation must be considerably numerous—We have about 200 state senators in the United States, and a less number than that of federal representatives cannot, clearly, be a full representation of this people, in the affairs of internal taxation and police, were there but one legislature for the whole union. The representation cannot be equal, or the situation of the people proper for one government only—if the extreme parts of the society cannot be represented as fully as the central—It is apparently impracticable that this should be the case in this extensive country—it would be impossible to collect a representation of the parts of the country five, six, and seven hundred miles from the seat of government.

Under one general government alone, there could be but one judiciary, one supreme and a proper number of inferior courts. I think it would be totally impracticable in this case, to preserve a due administration of justice, and the real benefits of the jury trial of the vicinage—there are now supreme courts in each state in the union; and a great number of county and other courts subordinate to each supreme court—most of these supreme and inferior courts are itinerant, and hold their sessions in different parts every year of their respective states, counties and districts—with all these moving courts, our citizens, from the vast extent of the country must travel very considerable distances from home to find the place where justice is administered. I am not for bringing justice so near to individuals as to afford them any temptation to engage in law suits; though I think it one of the greatest benefits in a good government, that each citizen should find a court of justice within a reasonable distance, perhaps, within a day's travel of his home; so that, without great inconveniences and enormous expences, he may have the advantages of his witnesses and jury—it would be impracticable to derive these advantages from one judiciary—the one supreme court at most could only set in the centre of the union, and move once a year into the centre of the eastern and southern extremes of it—and, in this case, each citizen, on an average, would travel 150 or 200 miles to find this court—that, however, inferior courts might be properly placed in the different

counties, and districts of the union, the appellate jurisdiction would be intolerable and expensive.

If it were possible to consolidate the states, and preserve the features of a free government, still it is evident that the middle states, the parts of the union, about the seat of government, would enjoy great advantages, while the remote states would experience the many inconveniences of remote provinces. Wealth, officers, and the benefits of government would collect in the centre: and the extreme states; and their principal towns become much less important.

There are other considerations which tend to prove that the idea of one consolidated whole, on free principles, is ill-founded—the laws of a free government rest on the confidence of the people, and operate gently—and never can extend their influence very far—if they are executed on free principles, about the centre, where the benefits of the government induce the people to support it voluntarily; yet they must be executed on the principles of fear and force in the extremes—This has been the case with every extensive republic of which we have any accurate account.

There are certain unalienable and fundamental rights, which in forming the social compact, ought to be explicitly ascertained and fixed—a free and enlightened people, in forming this compact, will not resign all their rights to those who govern, and they will fix limits to their legislators and rulers, which will soon be plainly seen by those who are governed, as well as by those who govern: and the latter will know they cannot be passed unperceived by the former, and without giving a general alarm—These rights should be made the basis of every constitution; and if a people be so situated, or have such different opinions that they cannot agree in ascertaining and fixing them, it is a very strong argument against their attempting to form one entire society, to live under one system of laws only.—I confess, I never thought the people of these states differed essentially in these respects; they having derived all these rights, from one common source, the British systems; and having in the formation of their state constitutions, discovered that their ideas relative to these rights are very similar. However, it is now said that the states differ so essentially in these respects, and even in the important article of the trial by jury, that when assembled in convention, they can agree to no words by which to establish that trial, or by which to ascertain and establish many other of these rights, as fundamental articles in the social compact. If so, we proceed to consolidate the states on no solid basis whatever.

But I do not pay much regard to the reasons given for not bottoming the new constitution on a better bill of rights. I still believe a complete

federal bill of rights to be very practicable. Nevertheless I acknowledge the proceedings of the convention furnish my mind with many new and strong reasons, against a complete consolidation of the states. They tend to convince me, that it cannot be carried with propriety very far—that the convention have gone much farther in one respect than they found it practicable to go in another; that is, they propose to lodge in the general government very extensive powers—*powers* nearly, if not altogether, complete and unlimited, over the purse and the sword. But, in its organization, they furnish the strongest proof that the proper limbs, or parts of a government, to support and execute those powers on proper principles (or in which they can be safely lodged) cannot be formed. These powers must be lodged somewhere in every society; but then they should be lodged where the strength and guardians of the people are collected. They can be wielded, or safely used, in a free country only by an able executive and judiciary, a respectable senate, and a secure, full, and equal representation of the people. I think the principles I have premised or brought into view, are well founded—I think they will not be denied by any fair reasoner. It is in connection with these, and other solid principles, we are to examine the constitution. It is not a few democratic phrases, or a few well formed features, that will prove its merits; or a few small omissions that will produce its rejection among men of sense; they will enquire what are the essential powers in a community, and what are nominal ones, where and how the essential powers shall be lodged to secure government, and to secure true liberty.

In examining the proposed constitution carefully, we must clearly perceive an unnatural separation of these powers from the substantial representation of the people. The state governments will exist, with all their governors, senators, representatives, officers and expences; in these will be nineteen-twentieths of the representatives of the people; they will have a near connection, and their members an immediate intercourse with the people; and the probability is, that the state governments will possess the confidence of the people, and be considered generally as their immediate guardians.

The general government will consist of a new species of executive, a small senate, and a very small house of representatives. As many citizens will be more than three hundred miles from the seat of this government as will be nearer to it, its judges and officers cannot be very numerous, without making our government very expensive. Thus will stand the state and the general governments, should the constitution be adopted without any alterations in their organization: but as to powers,

the general government will possess all essential ones, at least on paper, and those of the states a mere shadow of power. And therefore, unless the people shall make some great exertions to restore to the state governments their powers in matters of internal police; as the powers to lay and collect, exclusively, internal taxes, to govern the militia, and to hold the decisions of their own judicial courts upon their own laws final, the balance cannot possibly continue long; but the state governments must be annihilated, or continue to exist for no purpose.

It is however to be observed, that many of the essential powers given the national government are not exclusively given; and the general government may have prudence enough to forbear the exercise of those which may still be exercised by the respective states. But this cannot justify the impropriety of giving powers, the exercise of which prudent men will not attempt, and imprudent men will, or probably can, exercise only in a manner destructive of free government. The general government, organized as it is, may be adequate to many valuable objects, and be able to carry its laws into execution on proper principles in several cases; but I think its warmest friends will not contend, that it can carry all the powers proposed to be lodged in it into effect, without calling to its aid a military force, which must very soon destroy all elective governments in the country, produce anarchy, or establish despotism. Though we cannot have now a complete idea of what will be the operations of the proposed system, we may, allowing things to have their common course, have a very tolerable one. The powers lodged in the general government, if exercised by it, must ultimately⁹ effect the internal police of the states, as well as external concerns; and there is no reason to expect the numerous state governments, and their connections, will be very friendly to the execution of federal laws in those internal affairs, which hitherto have been under their own immediate management. There is more reason to believe, that the general government, far removed from the people, and none of its members elected oftener than once in two years, will be forgot or neglected, and its laws in many cases disregarded, unless a multitude of officers and military force be continually kept in view, and employed to enforce the execution of the laws, and to make the government feared and respected. No position can be truer than this,-That in this country either neglected laws, or a military execution of them, must lead to a revolution, and to the destruction of freedom. Neglected laws must first lead to anarchy and confusion; and a military execution of laws is only a shorter way to the same point-despotic government.

LETTER III.

OCTOBER 10th, 1787.

DEAR SIR, The great object of a free people must be so to form their government and laws and so to administer them as to create a confidence in, and respect for the laws; and thereby induce the sensible and virtuous part of the community to declare in favor of the laws, and to support them without an expensive military force. I wish, though I confess I have not much hope, that this may be the case with the laws of Congress under the new Constitution. I am fully convinced that we must organize the national government on different principles, and make the parts of it more efficient, and secure in it more effectually the different interests in the community; or else leave in the state governments some powers proposed to be lodged in it—at least till such an organization shall be found to be practicable. Not sanguine in my expectations of a good federal administration, and satisfied, as I am, of the impracticability of consolidating the states, and at the same time of preserving the rights of the people at large, I believe we ought still to leave some of those powers in the state governments, in which the people, in fact, will still be represented—to define some other powers proposed to be vested in the general government, more carefully, and to establish a few principles to secure a proper exercise of the powers given it. It is not my object to multiply objections, or to contend about inconsiderable powers or amendments. I wish the system adopted with a few alterations; but those, in my mind, are essential ones; if adopted without, every good citizen will acquiesce, though I shall consider the duration of our governments, and the liberties of this people, very much dependant on the administration of the general government. A wise and honest administration, may make the people happy under any government; but necessity only can justify even our leaving open avenues to the abuse of power, by wicked, unthinking, or ambitious men. I will examine, first, the organization of the proposed government in order to judge; 2d. with propriety, what powers are improperly, at least prematurely lodged in it. I shall examine, 3d, the undefined powers; and 4th, those powers, the exercise of which is not secured on safe and proper ground.

First. As to the organization—the house of representatives, the democratic branch, as it is called, is to consist of 65 members; that is, about one representative for fifty thousand inhabitants, to be chosen biennially—the federal legislature may increase this number to one for every

thirty thousand inhabitants, abating fractional numbers in each state.—Thirty-three representatives will make a quorum for doing business, and a majority of those present determine the sense of the house.—I have no idea that the interests, feelings, and opinions of three or four millions of people, especially touching internal taxation, can be collected in such a house.—In the nature of things, nine times in ten, men of elevated classes in the community only can be chosen—Connecticut, for instance, will have five representatives—not one man in a hundred of those who form the democratic branch in the state legislature, will on a fair computation, be one of the five—The people of this country, in one sense, may all be democratic; but if we make the proper distinction between the few men of wealth and abilities, and consider them, as we ought, as the natural aristocracy of the country, and the great body of the people, the middle and lower classes, as the democracy, this federal representative branch will have but very little democracy in it, even this small representation is not secured on proper principles.—The branches of the legislature are essential parts of the fundamental compact, and ought to be so fixed by the people, that the legislature cannot alter itself by modifying the elections of its own members. This, by a part of Art. 1. Sect. 4. the general legislature may do, it may evidently so regulate elections as to secure the choice of any particular description of men.—It may make the whole state one district—make the capital, or any place in the state, the place or places of election—it may declare that the five men (or whatever the number may be the state may chuse) who shall have the most votes shall be considered as chosen—In this case it is easy to perceive how the people who live scattered in the inland towns will bestow their votes on different men—and how few men in a city, in any order or profession, may unite and place any five men they please highest among those that may be voted for—and all this may be done constitutionally, and by those silent operations, which are not immediately perceived by the people in general.—I know it is urged, that the general legislature will be disposed to regulate elections on fair and just principles:—This may be true—good men will generally govern well with almost any constitution: But why in laying the foundation of the social system, need we unnecessarily have a door open to improper regulations?—This is a very general and unguarded clause, and many evils may flow from that part which authorises the congress to regulate elections—Were it omitted, the regulations of elections would be solely in the respective states, where the people are substantially represented; and where the elections ought to be regulated, otherwise to secure a representation from all parts of the

community, in making the constitution, we ought to provide for dividing each state into a proper number of districts, and for confining the electors in each district to the choice of some men, who shall have a permanent interest and residence in it; and also for this essential object, that the representative elected shall have a majority of the votes of those electors who shall attend and give their votes.

In considering the practicability of having a full and equal representation of the people from all parts of the union, not only distances and different opinions, customs, and views, common in extensive tracts of country, are to be taken into view, but many differences peculiar to Eastern, Middle, and Southern States. These differences are not so perceivable among the members of congress, and men of general information in the state, as among the men who would properly form the democratic branch. The Eastern states are very democratic, and composed chiefly of moderate freeholders: they have but few rich men and no slaves; the Southern states are composed chiefly of rich planters and slaves; they have but few moderate freeholders, and the prevailing influence, in them, is generally a dissipated aristocracy: The Middle states partake partly of the Eastern, and partly of the Southern character.

Perhaps, nothing could be more disjointed, unweildly and incompetent to doing business with harmony and dispatch, than a federal house of representatives properly numerous for the great objects of taxation, &c. collected from the several states; whether such men would ever act in concert; whether they would not worry along a few years, and then be the means of separating the parts of the union, is very problematical?—View this system in whatever form we can, propriety brings us still to this point, a federal government possessed of general and complete powers, as to those national objects which cannot well come under the cognizance of the internal laws of the respective states, and this federal government, accordingly, consisting of branches not very numerous.

The house of representatives is on the plan of consolidation, but the senate is entirely on the federal plan; and Delaware will have as much constitutional influence in the senate, as the largest state in the union; and in this senate are lodged legislative, executive and judicial powers: Ten states in this union urge that they are small states, nine of which were present in the convention.—They were interested in collecting large powers into the hands of the senate, in which each state still will have its equal share of power. I suppose it was impracticable for the three large states, as they were called, to get the senate formed on any other principles:—But this only proves, that we cannot form one general government on equal and just principles—and proves, that we ought not to

lodge in it such extensive powers before we are convinced of the practicability of organizing it on just and equal principles. The senate will consist of two members from each state, chosen by the state legislature, every sixth year. The clause referred to, respecting the elections of representatives, empowers the general legislature to regulate the elections of senators also, "except as to the places of chusing senators."—There is, therefore, but little more security in the elections than in those of representatives:—Fourteen senators make a quorum for business, and a majority of the senators present give the vote of the senate, except in giving judgment upon an impeachment, or in making treaties, or in expelling a member, when two thirds of the senators present must agree.—The members of the legislature are not excluded from being elected to any military offices, or any civil offices, except those created, or the emoluments of which shall be increased by themselves: two-thirds of the members present, of either house, may expel a member at pleasure.—The senate is an independent branch of the legislature, a court for trying impeachments, and also a part of the executive, having a negative in the making of all treaties, and in appointing almost all officers.

The vice-president is not a very important, if not an unnecessary part of the system—he may be a part of the senate at one period, and act as the supreme executive magistrate at another—The election of this officer, as well as of the president of the United States seems to be properly secured; but when we examine the powers of the president, and the forms of the executive, shall perceive that the general government, in this part, will have a strong tendency to aristocracy, or the government of the few. The executive is, in fact, the president and senate in all transactions of any importance; the president is connected with, or tied to the senate; he may always act with the senate, never can effectually counteract its views: The president can appoint no officer, civil or military, who shall not be agreeable to the senate; and the presumption is, that the will of so important a body will not be very easily controuled, and that it will exercise its powers with great address.

In the judicial department, powers ever kept distinct in well balanced governments, are no less improperly blended in the hands of the same men—in the judges of the supreme court is lodged, the law, the equity and the fact. It is not necessary to pursue the minute organical parts of the general goverment proposed.—There were various interests in the convention, to be reconciled, especially of large and small states; of carrying and non-carrying states: and of states more and states less democratic—vast laboured attention¹⁰ were by the convention bestowed on the organization of the parts of the constitution offered; still it is acknowledged, there are many things radically wrong in the essential

parts of this constitution—but it is said, that these are the result of our situation:—On a full examination of the subject, I believe it; but what do the laborious inquiries and determinations of the convention prove? If they prove any thing, they prove that we cannot consolidate the states on proper principles: The organization of the government presented proves, that we cannot form a general government in which all power can be safely lodged; and a little attention to the parts of the one proposed will make it appear very evident, that all the powers proposed to be lodged in it, will not be then well deposited, either for the purposes of government, or the preservation of liberty. I will suppose no abuse of powers in those cases, in which the abuse of it is not well guarded against—I will suppose the words authorising the general government to regulate the elections of its own members struck out of the plan, or free district elections, in each state, amply secured.—That the small representation provided for shall be as fair and equal as it is capable of being made—I will suppose the judicial department regulated on pure principles, by future laws, as far as it can be by the constitution, and consist with the situation of the country—still there will be an unreasonable accumulation of powers in the general government, if all be granted, enumerated in the plan proposed. The plan does not present a well balanced government: The senatorial branch of the legislative and the executive are substantially united, and the president, or the first executive magistrate, may aid the senatorial interest when weakest, but never can effectually support the democratic, however it may be oppressed;—the excellency, in my mind, of a well balanced government is that it consists of distinct branches, each sufficiently strong and independant to keep its own station, and to aid either of the other branches which may occasionally want aid.

The convention found that any but a small house of representatives would be expensive, and that it would be impracticable to assemble a large number of representatives. Not only the determination of the convention in this case, but the situation of the states, proves the impracticability of collecting, in any one point, a proper representation.

The formation of the senate, and the smallness of the house, being, therefore, the result of our situation, and the actual state of things, the evils which may attend the exercise of many powers in this national government may be considered as without a remedy.

All officers are impeachable before the senate only—before the men by whom they are appointed, or who are consenting to the appointment of these officers. No judgment of conviction, on an impeachment, can be given unless two thirds of the senators agree. Under these circumstances the right of impeachment, in the house, can be of but little impor-

tance: the house cannot expect often to convict the offender; and, therefore, probably, will but seldom or never exercise the right. In addition to the insecurity and inconveniences attending this organization beforementioned, it may be observed, that it is extremely difficult to secure the people against the fatal effects of corruption and influence. The power of making any law will be in the president, eight senators, and seventeen representatives, relative to the important objects enumerated in the constitution. Where there is a small representation a sufficient number to carry any measure, may, with ease, be influenced by bribes, offices and civilities; they may easily form private junctoes, and out-door meetings, agree on measures, and carry them by silent votes.

Impressed, as I am, with a sense of the difficulties there are in the way of forming the parts of a federal government on proper principles, and seeing a government so unsubstantially organized, after so arduous an attempt has been made, I am led to believe, that powers ought to be given to it with great care and caution.

In the second place it is necessary, therefore, to examine the extent, and the probable operations of some of those extensive powers proposed to be vested in this government. These powers, legislative, executive, and judicial, respect internal as well as external objects. Those respecting external objects, as all foreign concerns, commerce, impost, all causes arising on the seas, peace and war, and Indian affairs, can be lodged no where else, with any propriety, but in this government. Many powers that respect internal objects ought clearly to be lodged in it; as those to regulate trade between the states, weights and measures, the coin or current monies, post-offices, naturalization, &c. These powers may be exercised without essentially effecting the internal police of the respective states: But powers to lay and collect internal taxes, to form the militia, to make bankrupt laws, and to decide on appeals, questions arising on the internal laws of the respective states, are of a very serious nature, and carry with them almost all other powers. These taken in connection with the others, and powers to raise armies and build navies, proposed to be lodged in this government, appear to me to comprehend all the essential powers in the community, and those which will be left to the states will be of no great importance.

A power to lay and collect taxes at discretion, is, in itself, of very great importance. By means of taxes, the government may command the whole or any part of the subject's property. Taxes may be of various kinds; but there is a strong distinction between external and internal taxes. External taxes are impost duties, which are laid on imported goods; they may usually be collected in a few seaport towns, and of a few individuals, though ultimately paid by the consumer; a few officers can

collect them, and they can be carried no higher than trade will bear, or smuggling permit—that in the very nature of commerce bounds are set to them. But internal taxes, as poll and land taxes, excise, duties on all written instruments, &c. may fix themselves on every person and species of property in the community; they may be carried to any lengths, and in proportion as they are extended, numerous officers must be employed to assess them, and to enforce the collection of them. In the United Netherlands the general government has compleat powers, as to external taxation; but as to internal taxes, it makes requisitions on the provinces. Internal taxation in this country is more important, as the country is so very extensive. As many assessors and collectors of federal taxes will be above three hundred miles from the seat of the federal government as will be less. Besides, to lay and collect internal taxes, in this extensive country, must require a great number of congressional ordinances, immediately operating upon the body of the people; these must continually interfere with the state laws, and thereby produce disorder and general dissatisfaction, till the one system of laws or the other, operating upon the same subjects, shall be abolished. These ordinances alone, to say nothing of those respecting the militia, coin, commerce, federal judiciary, &c. &c. will probably soon defeat the operations of the state laws and governments.

Should the general government think it politic, as some administrations (if not all) probably will, to look for a support in a system of influence, the government will take every occasion to multiply laws, and officers to execute them, considering these as so many necessary props for its own support. Should this system of policy be adopted, taxes more productive than the impost duties will, probably, be wanted to support the government, and to discharge foreign demands, without leaving any thing for the domestic creditors. The internal sources of taxation then must be called into operation, and internal tax laws and federal assessors and collectors spread over this immense country. All these circumstances considered, is it wise, prudent, or safe, to vest the powers of laying and collecting internal taxes in the general government, while imperfectly organized and inadequate; and to trust to amending it hereafter, and making it adequate to this purpose? It is not only unsafe but absurd to lodge power in a government before it is fitted to receive it? It is confessed that this power and representation ought to go together. Why give the power first? Why give the power to the few, who, when possessed of it, may have address enough to prevent the increase of representation? Why not keep the power, and, when necessary, amend the constitution, and add to its other parts this power, and a proper increase of representation at the same time? Then men who may want the power

will be under strong inducements to let in the people, by their representatives, into the government, to hold their due proportion of this power. If a proper representation be impracticable, then we shall see this power resting in the states, where it at present ought to be, and not inconsiderately given up.

When I recollect how lately congress, convention, legislatures, and people, contended in the cause of liberty, and carefully weighed the importance of taxation, I can scarcely believe we are serious in proposing to vest the powers of laying and collecting internal taxes in a government so imperfectly organized for such purposes. Should the United States be taxed by a house of representatives of two hundred members, which would be about fifteen members for Connecticut, twenty-five for Massachusetts, &c. still the middle and lower classes of people could have no great share, in fact, in taxation. I am aware it is said, that the representation proposed by the new constitution is sufficiently numerous; it may be for many purposes; but to suppose that this branch is sufficiently numerous to guard the rights of the people in the administration of the government, in which the purse and sword is placed, seems to argue that we have forgot what the true meaning of representation is. I am sensible also, that it is said that congress will not attempt to lay and collect internal taxes; that it is necessary for them to have the power, though it cannot probably be exercised.—I admit that it is not probable that any prudent congress will attempt to lay and collect internal taxes, especially direct taxes: but this only proves, that the power would be improperly lodged in congress, and that it might be abused by imprudent and designing men.

I have heard several gentlemen, to get rid of objections to this part of the constitution, attempt to construe the powers relative to direct taxes, as those who object to it would have them; as to these, it is said, that congress will only have power to make requisitions, leaving it to the states to lay and collect them. I see but very little colour for this construction, and the attempt only proves that this part of the plan cannot be defended. By this plan there can be no doubt, but that the powers of congress will be complete as to all kind of taxes whatever—Further, as to internal taxes, the state governments will have concurrent powers with the general government, and both may tax the same objects in the same year; and the objection that the general government may suspend a state tax, as a necessary measure for the promoting the collection of a federal tax, is not without foundation.—As the states owe large debts, and have large demands upon them individually, there clearly would be a propriety in leaving in their possession exclusively, some of the internal sources of taxation, at least until the federal representation shall be

properly increased: The power in the general government to lay and collect internal taxes, will render its powers respecting armies, navies and the militia, the more exceptionable. By the constitution it is proposed that congress shall have power "to raise and support armies, but no appropriation of money to that use shall be for a longer term than two years; to provide and maintain a navy; to provide for calling forth the militia to execute the laws of the union; suppress insurrections, and repel invasions: to provide for organizing, arming, and disciplining the militia: reserving to the states the right to appoint the officers, and to train the militia according to the discipline prescribed by congress;" congress will have unlimited power to raise armies, and to engage officers and men for any number of years; but a legislative act applying money for their support can have operation for no longer term than two years, and if a subsequent congress do not within the two years renew the appropriation, or further appropriate monies for the use of the army, the army, will be left to take care of itself. When an army shall once be raised for a number of years, it is not probable that it will find much difficulty in getting congress to pass laws for applying monies to its support. I see so many men in America fond of a standing army, and especially among those who probably will have a large share in administering the federal system; it is very evident to me, that we shall have a large standing army as soon as the monies to support them can be possibly found. An army is a very agreeable place of employment for the young gentlemen of many families. A power to raise armies must be lodged some where; still this will not justify the lodging this power in a bare majority of so few men without any checks; or in the government in which the great body of the people, in the nature of things, will be only nominally represented. In the state governments the great body of the people, the yeomanry, &c. of the country, are represented: It is true they will chuse the members of congress, and may now and then chuse a man of their own way of thinking; but it is impossible for forty, or thirty thousand people in this country, one time in ten to find a man who can possess similar feeling, views, and interests with themselves: powers to lay and collect taxes and to raise armies are of the greatest moment; for carrying them into effect, laws need not be frequently made, and the yeomanry, &c. of the country ought substantially to have a check upon the passing of these laws; this check ought to be placed in the legislatures, or at least, in the few men the common people of the country, will, probably, have in congress, in the true sense of the word, "from among themselves." It is true, the yeomanry of the country possess the lands, the weight of property, possess arms, and are too strong a body of men to be openly offended-and, therefore, it is urged, they

will take care of themselves, that men who shall govern will not dare pay any disrespect to their opinions. It is easily perceived, that if they have not their proper negative upon passing laws in congress, or on the passage of laws relative to taxes and armies, they may in twenty or thirty years be by means imperceptible to them, totally deprived of that boasted weight and strength: This may be done in a great measure by congress, if disposed to do it, by modelling the militia. Should one fifth, or one eighth part of the men capable of bearing arms, be made a select militia, as has been proposed, and those the young and ardent part of the community, possessed of but little or no property, and all the others put upon a plan that will render them of no importance, the former will answer all the purposes of an army, while the latter will be defenceless. The state must train the militia in such form and according to such systems and rules as Congress shall prescribe: and the only actual influence the respective states will have respecting the militia will be in appointing the officers. I see no provision made for calling out the *posse commitatus* for executing the laws of the union, but provision is made for Congress to call forth the militia for the execution of them—and the militia in general, or any select part of it, may be called out under military officers, instead of the sheriff to enforce an execution of federal laws, in the first instance and thereby introduce an entire military execution of the laws. I know that powers to raise taxes, to regulate the military strength of the community on some uniform plan, to provide for its defence and internal order, and for duly executing the laws, must be lodged somewhere; but still we ought not to lodge them, as evidently to give one another of them in the community, undue advantages over others; or commit the many to the mercy, prudence, and moderation of the few. And so far as it may be necessary to lodge any of the peculiar powers in the general government, a more safe exercise of them ought to be secured, by requiring the consent of two-thirds or three-fourths of Congress thereto—until the federal representation can be increased, so that the democratic members in Congress may stand some tolerable chance of a reasonable negative, in behalf of the numerous, important, and democratic part of the community.

I am not sufficiently acquainted with the laws and internal police of all the states to discern fully, how general bankrupt laws, made by the union, would effect them, or promote the public good. I believe the property of debtors, in the several states, is held responsible for their debts in modes and forms very different. If uniform bankrupt laws can be made without producing real and substantial inconveniences, I wish them to be made by Congress.

There are some powers proposed to be lodged in the general government in the judicial department, I think very unnecessarily, I mean powers respecting questions arising upon the internal laws of the respective states. It is proper the federal judiciary should have powers co-extensive with the federal legislature—that is, the power of deciding finally on the laws of the union. By Art. 3. Sect. 2. the powers of the federal judiciary are extended (among other things) to all cases between a state and citizens of another state—between citizens of different states—between a state or the citizens thereof, and foreign states, citizens or subjects. Actions in all these cases, except against a state government, are now brought and finally determined in the law courts of the states respectively; and as there are no words to exclude these courts of their jurisdiction in these cases, they will have concurrent jurisdiction with the inferior federal courts in them; and, therefore, if the new constitution be adopted without any amendment in this respect, all those numerous actions, now brought in the state courts between our citizens and foreigners, between citizens of different states, by state governments against foreigners, and by state governments against citizens of other states, may also be brought in the federal courts; and an appeal will lay in them from the state courts, or federal inferior courts, to the supreme judicial court of the union. In almost all these cases, either party may have the trial by jury in the state courts; excepting paper money and tender laws, which are wisely guarded against in the proposed constitution; justice may be obtained in these courts on reasonable terms; they must be more competent to proper decisions on the laws of their respective states, than the federal courts can possibly be. I do not, in any point of view, see the need of opening a new jurisdiction to these causes—of opening a new scene of expensive law suits—of suffering foreigners, and citizens of different states, to drag each other many hundred miles into the federal courts. It is true, those courts may be so organized by a wise and prudent legislature, as to make the obtaining of justice in them tolerably easy; they may in general be organized on the common law principles of the country: But this benefit is by no means secured by the constitution. The trial by jury is secured only in those few criminal cases, to which the federal laws will extend—as crimes committed on the seas against the laws of nations, treason and counterfeiting the federal securities and coin: But even in these cases, the jury trial of the vicinage is not secured, particularly in the large states, a citizen may be tried for a crime committed in the state, and yet tried in some states 500 miles from the place where it was committed; but the jury trial is not secured at all in civil causes. Though the convention have not established this trial, it is to be hoped that congress, in putting the new system into exe-

cution, will do it by a legislative act, in all cases in which it can be done with propriety. Whether the jury trial is not excluded [in] the supreme judicial court, is an important question. By Art. 3. Sect. 2. all cases affecting ambassadors, other public ministers, and consuls, and in those cases in which a state shall be party, the supreme court shall have jurisdiction. In all the other cases before mentioned, the supreme court shall have appellate jurisdiction, both as to LAW and FACT, with such exception, and under such regulations, as the congress shall make. By court is understood a court consisting of judges; and the idea of a jury is excluded. This court, or the judges, are to have jurisdiction on appeals, in all the cases enumerated, as to law and fact; the judges are to decide the law and try the fact, and the trial of the fact being assigned to the judges by the constitution, a jury for trying the fact is excluded; however, under the exceptions and powers to make regulations, Congress may, perhaps, introduce the jury, to try the fact in most necessary cases.

There can be but one supreme court in which the final jurisdiction will centre in all federal causes—except in cases where appeals by law shall not be allowed: The judicial powers of the federal courts extends in law and equity to certain cases: and, therefore, the powers to determine on the law, in equity, and as to the fact, all will centre in the supreme court:—These powers, which by this constitution are blended in the same hands, the same judges, are in Great-Britain deposited in different hands—to wit, the decision of the law in the law judges, the decision in equity in the chancellor, and the trial of the fact in the jury. It is a very dangerous thing to vest in the same judge power to decide on the law, and also general powers in equity; for if the law restrain him, he is only to step into his shoes of equity, and give what judgment his reason or opinion may dictate; we have no precedents in this country, as yet, to regulate the divisions as in equity in Great-Britain; equity, therefore, in the supreme court for many years, will be mere discretion. I confess in the constitution of the supreme court, as left by the constitution, I do not see a spark of freedom or a shadow of our own or the British common law.

This court is to have appellate jurisdiction in all the other cases before mentioned: Many sensible men suppose that cases before-mentioned respect, as well the criminal cases as the civil ones, mentioned antecedently in the constitution, if so an appeal is allowed in criminal cases—contrary to the usual sense of law. How far it may be proper to admit a foreigner or the citizen of another state to bring actions against state governments, which have failed in performing so many promises made during the war, is doubtful: How far it may be proper so to humble a state, as to bring¹¹ it to answer to an individual in a court of law, is wor-

thy of consideration; the states are now subject to no such actions; and this new jurisdiction will subject the states, and many defendants to actions, and processes, which were not in the contemplation of the parties, when the contract was made; all engagements existing between citizens of different states, citizens and foreigners, states and foreigners; and states and citizens of other states were made the parties contemplating the remedies then existing on the laws of the states—and the new remedy proposed to be given in the federal courts, can be founded on no principle whatever.

LETTER IV.

OCTOBER 12th, 1787.

DEAR SIR, It will not be possible to establish in the federal courts the jury trial of the vicinage so well as in the state courts.

Third. There appears to me to be not only a premature deposit of some important powers in the general government—but many of those deposited there are undefined, and may be used to good or bad purposes as honest or designing men shall prevail. By Art. 1, Sect. 2, representatives and direct taxes shall be apportioned among the several states, &c.—same art. sect. 8, the Congress shall have powers to lay and collect taxes, duties, &c. for the common defence and general welfare, but all duties, imposts and excises, shall be uniform throughout the United States: By the first recited clause, direct taxes shall be apportioned on the states. This seems to favour the idea suggested by some sensible men and writers, that Congress, as to direct taxes, will only have power to make requisitions; but the latter clause, power to¹² tax immediately individuals, without the intervention of the state legislatures[;] in fact the first clause appears to me only to provide that each state shall pay a certain portion of the tax, and the latter to provide that Congress shall have power to lay and collect taxes, that is to assess upon, and to collect of the individuals in the state, the states quota; but these still I consider as undefined powers, because judicious men understand them differently.

It is doubtful whether the vice president is to have any qualifications; none are mentioned; but he may serve as president, and it may be inferred, he ought to be qualified therefore as the president; but the qualifications of the president are required only of the person to be elected president. By art. the 2, sect. 2. “But the Congress may by law vest the appointment of such inferior officers as they think proper in the president alone, in the courts of law, or in the heads of the departments:” Who are inferior officers? May not a Congress disposed to vest

the appointment of all officers in the president, under this clause, vest the appointment of almost every officer in the president alone, and destroy the check mentioned in the first part of the clause, and lodged in the senate. It is true, this check is badly lodged, but then some check upon the first magistrate in appointing officers, ought, it appears by the opinion of the convention, and by the general opinion, to be established in the constitution. By art. 3, sect. 2, the supreme court shall have appellate jurisdiction as to law and facts with such exceptions, &c. to what extent it is intended the exceptions shall be carried—Congress may carry them so far as to annihilate substantially the appellate jurisdiction, and the clause be rendered of very little importance.

4th. There are certain rights which we have always held sacred in the United States, and recognized in all our constitutions, and which, by the adoption of the new constitution, its present form will be left unsecured. By article 6, the proposed constitution, and the laws of the United States, which shall be made in pursuance thereof; and all treaties made, or which shall be made under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby; any thing in the constitution or laws of any state to the contrary notwithstanding.

It is to be observed that when the people shall adopt the proposed constitution it will be their last and supreme act; it will be adopted not by the people of New-Hampshire, Massachusetts, &c. but by the people of the United States; and whenever this constitution, or any part of it, shall be incompatible with the antient customs, rights, the laws or the constitutions heretofore established in the United States, it will entirely abolish them and do them away: And not only this, but the laws of the United States which shall be made in pursuance of the federal constitution will be also supreme laws, and whenever they shall be incompatible with those customs, rights, laws or constitutions heretofore established, they will also entirely abolish them and do them away.

By the article before recited, treaties also made under the authority of the United States, shall be the supreme law: It is not said that these treaties shall be made in pursuance of the constitution—nor are there any constitutional bounds set to those who shall make them: The president and two thirds of the senate will be empowered to make treaties indefinitely, and when these treaties shall be made, they will also abolish all laws and state constitutions incompatible with them. This power in the president and senate is absolute, and the judges will be bound to allow full force to whatever rule, article or thing the president and senate shall establish by treaty, whether it be practicable to set any bounds to those

who make treaties, I am not able to say: If not, it proves that this power ought to be more safely lodged.

The federal constitution, the laws of congress made in pursuance of the constitution, and all treaties must have full force and effect in all parts of the United States; and all other laws, rights and constitutions which stand in their way must yield: It is proper the national laws should be supreme, and superior to state or district laws; but then the national laws ought to yield to alienable¹³ or fundamental rights—and national laws, made by a few men, should extend only to a few national objects. This will not be the case with the laws of congress: To have any proper idea of their extent, we must carefully examine the legislative, executive and judicial powers proposed to be lodged in the general government, and consider them in connection with a general clause in art. 1. sect. 8. in these words (after enumerating a number of powers) “To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or in any department or officer thereof.”—The powers of this government as has been observed, extend to internal as well as external objects, and to those objects to which all others are subordinate; it is almost impossible to have a just conception of these powers, or of the extent and number of the laws which may be deemed necessary and proper to carry them into effect, till we shall come to exercise those powers and make the laws. In making laws to carry those powers into effect, it will be expected, that a wise and prudent congress will pay respect to the opinions of a free people, and bottom their laws on those principles which have been considered as essential and fundamental in the British, and in our government: But a congress of a different character will not be bound by the constitution to pay respect to those principles.

It is said, that when the people make a constitution, and delegate powers, that all powers not delegated by them to those who govern, is reserved in the people; and that the people, in the present case, have reserved in themselves, and in there state governments, every right and power not expressly given by the federal constitution to those who shall administer the national government. It is said, on the other hand, that the people, when they make a constitution, yield all power not expressly reserved to themselves. The truth is, in either case, it is mere matter of opinion, and men usually take either side of the argument, as will best answer their purposes: But the general presumption being, that men who govern, will, in doubtful cases, construe laws and constitutions most favourably for encreasing their own powers; all wise and prudent people, in forming constitutions, have drawn the line, and carefully

described the powers parted with and the powers reserved. By the state constitutions, certain rights have been reserved in the people; or rather, they have been recognized and established in such a manner, that state legislatures are bound to respect them, and to make no laws infringing upon them. The state legislatures are obliged to take notice of the bills of rights of their respective states. The bills of rights, and the state constitutions, are fundamental compacts only between those who govern, and the people of the same state.

In the year 1788 the people of the United States make a federal constitution, which is a fundamental compact between them and their federal rulers; these rulers, in the nature of things, cannot be bound to take notice of any other compact. It would be absurd for them, in making laws, to look over thirteen, fifteen, or twenty state constitutions, to see what rights are established as fundamental, and must not be infringed upon, in making laws in the society. It is true, they would be bound to do it if the people, in their federal compact, should refer to the state constitutions, recognize all parts not inconsistent with the federal constitution, and direct their federal rulers to take notice of them accordingly; but this is not the case, as the plan stands proposed at present; and it is absurd, to suppose so unnatural an idea is intended or implied, I think my opinion is not only founded in reason, but I think it is supported by the report of the convention itself. If there are a number of rights established by the state constitutions, and which will remain sacred, and the general government is bound to take notice of them—it must take notice of one as well as another; and if unnecessary to recognize or establish one by the federal constitution, it would be unnecessary to recognize or establish another by it. If the federal constitution is to be construed so far in connection with the state constitutions, as to leave the trial by jury in civil causes, for instance, secured; on the same principles it would have left the trial by jury in criminal causes, the benefits of the writ of habeas corpus, &c. secured; they all stand on the same footing; they are the common rights of Americans, and have been recognized by the state constitutions: But the convention found it necessary to recognize or re-establish the benefits of that writ, and the jury trial in criminal cases. As to EXPOST FACTO laws, the convention has done the same in one case, and gone further in another. It is a part of the compact between the people of each state and the rulers, that no EXPOST FACTO laws shall be made. But the convention, by Art. 1. Sect. 10. have put a sanction upon this part even of the state compacts. In fact, the 9th and 10th Sections in Art. 1. in the proposed constitution, are no more nor less, than a partial bill of rights; they establish certain principles as part of the compact upon which the federal legislators and officers can

never infringe. It is here wisely stipulated, that the federal legislature shall never pass a bill of attainder, or EXPOST FACTO law; that no tax shall be laid on articles exported, &c. The establishing of one right implies the necessity of establishing another and similar one.

On the whole, the position appears to me to be undeniable, that this bill of rights ought to be carried farther, and some other principles established, as a part of this fundamental compact between the people of the United States and their federal rulers.

It is true, we are not disposed to differ much, at present, about religion; but when we are making a constitution, it is to be hoped, for ages and millions yet unborn, why not establish the free exercise of religion, as a part of the national compact. There are other essential rights, which we have justly understood to be the rights of freemen; as freedom from hasty and unreasonable search warrants, warrants not founded on oath, and not issued with due caution, for searching and seizing men's papers, property, and persons. The trials by jury in civil causes, it is said, varies so much in the several states, that no words could be found for the uniform establishment of it. If so the federal legislation will not be able to establish it by any general laws. I confess I am of opinion it may be established, but not in that beneficial manner in which we may enjoy it, for the reasons beforementioned. When I speak of the jury trial of the vicinage, or the trial of the fact in the neighbourhood, -I do not lay so much stress upon the circumstance of our being tried by our neighbours: in this enlightened country men may be probably impartially tried by those who do not live very near them: but the trial of facts in the neighbourhood is of great importance in other respects. Nothing can be more essential than the cross examining witnesses, and generally before the triers of the facts in question. The common people can establish facts with much more ease with oral than written evidence; when trials of facts are removed to a distance from the homes of the parties and witnesses, oral evidence becomes intolerably expensive, and the parties must depend on written evidence, which to the common people is expensive and almost useless; it must be frequently taken *ex-parte*, and but very seldom leads to the proper discovery of truth.

The trial by jury is very important in another point of view. It is essential in every free country, that common people should have a part and share of influence, in the judicial as well as in the legislative department. To hold open to them the offices of senators, judges, and officers to fill which an expensive education is required, cannot answer any valuable purposes for them; they are not in a situation to be brought forward and to fill those offices; these, and most other offices of any considerable importance, will be occupied by the few. The few, the well

born, &c. as Mr. Adams calls them,¹⁴ in judicial decisions as well as in legislation, are generally disposed, and very naturally too, to favour those of their own description.

The trial by jury in the judicial department, and the collection of the people by their representatives in the legislature, are those fortunate inventions which have procured for them in this country, their true proportion of influence, and the wisest and most fit means of protecting themselves in the community. Their situation, as jurors and representatives, enables them to acquire information and knowledge in the affairs and government of the society; and to come forward, in turn, as the centinels and guardians of each other. I am very sorry that even a few of our countrymen should consider jurors and representatives in a different point of view, as ignorant, troublesome bodies, which ought not to have any share in the concerns of government.

I confess I do not see in what cases the Congress can, with any pretence of right, make a law to suppress the freedom of the press; though I am not clear, that Congress is restrained from laying any duties whatever on printing and from laying duties particularly heavy on certain pieces printed, and perhaps Congress may require large bonds for the payment of these duties. Should the printer say, the freedom of the press was secured by the constitution of the state in which he lived, Congress might, and perhaps, with great propriety, answer, that the federal constitution is the only compact existing between them and the people; in this compact the people have named no others, and therefore Congress, in exercising the powers assigned them, and in making laws to carry them into execution, are restrained by nothing beside the federal constitution, any more than a state legislature is restrained by a compact between the magistrates and people of a county, city, or town of which the people, in forming the state constitution, have taken no notice.

It is not my object to enumerate rights of inconsiderable importance; but there are others, no doubt, which ought to be established as a fundamental part of the national system.

It is worthy of observation, that all treaties are made by foreign nations with a confederacy of thirteen states—that the western country is attached to thirteen states—thirteen states have jointly and severally engaged to pay the public debts.—Should a new government be formed of nine, ten, eleven, or twelve states, those treaties could not be considered as binding on the foreign nations who made them. However, I believe the probability to be, that if nine states adopt the constitution, the others will.

It may also be worthy our examination, how far the provision for amending this plan, when it shall be adopted, is of any importance. No

measures can be taken towards amendments, unless two-thirds of the Congress, or two-thirds of the legislatures of the several states shall agree.—While power is in the hands of the people, or democratic part of the community, more especially as at present, it is easy, according to the general course of human affairs, for the few influential men in the community, to obtain conventions, alterations in government, and to persuade the common people they may change for the better, and to get from them a part of the power: But when power is once transferred from the many to the few, all changes become extremely difficult; the government, in this case, being beneficial to the few, they will be exceedingly artful and adroit in preventing any measures which may lead to a change; and nothing will produce it, but great exertions and severe struggles on the part of the common people. Every man of reflection must see, that the change now proposed, is a transfer of power from the many to the few, and the probability is, the artful and ever active aristocracy, will prevent all peaceable measures for changes, unless when they shall discover some favorable moment to increase their own influence. I am sensible, thousands of men in the United States, are disposed to adopt the proposed constitution, though they perceive it to be essentially defective, under an idea that amendment of it, may be obtained when necessary. This is a pernicious idea, it argues a servility of character totally unfit for the support of free government; it is very repugnant to that perpetual jealousy respecting liberty, so absolutely necessary in all free states, spoken of by Mr. Dickinson.¹⁵—However, if our countrymen are so soon changed, and the language of 1774, is become odious to them, it will be in vain to use the language of freedom, or to attempt to rouse them to free enquiries: But I shall never believe this is the case with them, whatever present appearances may be, till I shall have very strong evidence indeed of it.

LETTER V.

OCTOBER 13th, 1787.

DEAR SIR, Thus I have examined the federal constitution as far as a few days leisure would permit. It opens to my mind a new scene; instead of seeing powers cautiously lodged in the hands of numerous legislators, and many magistrates, we see all important powers collecting in one centre, where a few men will possess them almost at discretion. And instead of checks in the formation of the government, to secure the rights of the people against the usurpation of those they appoint to govern, we are to understand the equal division of lands among our people, and the strong arm furnished them by nature and situation, are to secure them against those usurpations. If there are advantages in the equal division of our lands, and the strong and manly habits of our people, we ought

to establish governments calculated to give duration to them, and not governments which never can work naturally, till that equality of property, and those free and manly habits shall be destroyed; these evidently are not the natural basis of the proposed constitution.—No man of reflection, and skilled in the science of government, can suppose these will move on harmoniously together for ages, or even for fifty years. As to the little circumstances commented upon, by some writers, with applause—as the age of a representative, of the president, &c.—they have, in my mind, no weight in the general tendency of the system.

There are, however, in my opinion, many good things in the proposed system. It is founded on elective principles, and the deposits of powers in several hands, is essentially right.—The guards against those evils we have experienced in some states in legislation are valuable indeed: but the value of every feature in this system is vastly lessened for the want of that one important feature in a free government, a representation of the people. Because we have sometimes abused democracy, I am not among those men who think a democratic branch a nuisance; which branch shall be sufficiently numerous, to admit some of the best informed men of each order in the community into the administration of government.

While the radical defects in the proposed system are not so soon discovered, some temptations to each state, and to many classes of men to adopt it, are very visible. It uses the democratic language of several of the state constitutions, particularly that of Massachusetts; the eastern states will receive advantages so far as the regulation of trade, by a bare majority, is committed to it: Connecticut and New-Jersey will receive their share of a general impost:—The middle states will receive the advantages surrounding the seat of government:—The southern states will receive protection, and have their negroes represented in the legislature, and large back countries will soon have a majority in it.—This system promises a large field of employment to military gentlemen, and gentlemen of the law; and in case the government shall be executed without convulsions, it will afford security to creditors, to the clergy, salary-men and others depending on money payments. So far as the system promises justice and reasonable advantages, in these respects, it ought to be supported by all honest men; but whenever it promises unequal and improper advantages to any particular states, or orders of men, it ought to be opposed.

I have, in the course of these letters observed, that there are many good things in the proposed constitution, and I have endeavoured to point out many important defects in it. I have admitted that we want a federal system—that we have a system presented, which, with several

alterations, may be made a tolerable good one—I have admitted there is a well founded uneasiness among creditors and mercantile men. In this situation of things, you ask me what I think ought to be done? My opinion in this case is only the opinion of an individual, and so far only as it corresponds¹⁶ with the opinions of the honest and substantial part of the community, is it entitled to consideration. Though I am fully satisfied that the state conventions ought most seriously to direct their exertions to altering and amending the system proposed before they shall adopt it—yet I have not sufficiently examined the subject, or formed an opinion, how far it will be practicable for those conventions to carry their amendments. As to the idea, that it will be in vain for those conventions to attempt amendments, it cannot be admitted; it is impossible to say whether they can or not until the attempt shall be made: and when it shall be determined, by experience, that the conventions cannot agree in amendments, it will then be an important question before the people of the United States, whether they will adopt or not the system proposed in its present form. This subject of consolidating the states is new; and because forty or fifty men have agreed in a system, to suppose the good sense of this country, an enlightened nation, must adopt it without examination, and though in a state of profound peace, without endeavouring to amend those parts they perceive are defective, dangerous to freedom, and destructive of the valuable principles of republican government—is truly humiliating. It is true there may be danger in delay; but there is danger in adopting the system in its present form; and I see the danger in either case will arise principally from the conduct and views of two very unprincipled parties in the United States—two fires, between which the honest and substantial people have long found themselves situated. One party is composed of little insurgents, men in debt, who want no law, and who want a share of the property of others; these are called levellers, Shayites, &c. The other party is composed of a few, but more dangerous men, with their servile dependents; these avariciously grasp at¹⁷ power and property; you may discover in all the actions of these men, an evident dislike to free and equal governments, and they will go systematically to work to change, essentially, the forms of government in this country; these are called aristocrates, morrisites,¹⁸ &c. &c. Between these two parties is the weight of the community; the men of middling property, men not in debt on the one hand, and men, on the other, content with republican governments, and not aiming at immense fortunes, offices, and power. In 1786, the little insurgents, the levellers, came forth, invaded the rights of others, and attempted to establish governments according to their wills. Their movements evidently gave encouragement to the other party, which, in

1787, has taken the political field, and with its fashionable dependents, and the tongue and the pen, is endeavouring to establish in great haste, a politer kind of government. These two parties, which will probably be opposed or united as it may suit their interests and views, are really insignificant, compared with the solid, free, and independent part of the community. It is not my intention to suggest, that either of these parties, and the real friends of the proposed constitution, are the same men. The fact is, these aristocrats support and hasten the adoption of the proposed constitution, merely because they think it is a stepping stone to their favourite object. I think I am well founded in this idea; I think the general politics of these men support it, as well as the common observation among them, That the proffered plan is the best that can be got at present, it will do for a few years, and lead to something better. The sensible and judicious part of the community will carefully weigh all these circumstances; they will view the late convention as a respectable assembly of men—America probably never will see an assembly of men of a like number, more respectable. But the members of the convention met without knowing the sentiments of one man in ten thousand in these states respecting the new ground taken. Their doings are but the first attempts in the most important scene ever opened. Though each individual in the state conventions will not, probably, be so respectable as each individual in the federal convention, yet as the state conventions will probably consist of fifteen hundred or two thousand men of abilities, and versed in the science of government, collected from all parts of the community and from all orders of men, it must be acknowledged that the weight of respectability will be in them—In them will be collected the solid sense and the real political character of the country. Being revisers of the subject, they will possess peculiar advantages. To say that these conventions ought not to attempt, coolly and deliberately, the revision of the system, or that they cannot amend it, is very foolish or very assuming. If these conventions, after examining the system, adopt it, I shall be perfectly satisfied, and wish to see men make the administration of the government an equal blessings to all orders of men. I believe the great body of our people to be virtuous and friendly to good government, to the protection of liberty and property; and it is the duty of all good men, especially of those who are placed as sentinels to guard their rights—it is their duty to examine into the prevailing politics of parties, and to disclose them—while they avoid exciting undue suspicions, to lay facts before the people, which will enable them to form a proper judgment. Men, who wish the people of this country to determine for themselves, and deliberately to fit the government to their situation, must feel some degree of indignation at those attempts to hurry

the adoption of a system, and to shut the door against examination. The very attempts create suspicions, that those who make them have secret views, or see some defects in the system, which, in the hurry of affairs, they expect will escape the eye of a free people.

What can be the views of those gentlemen in Pennsylvania, who precipitated decisions on this subject?¹⁹ What can be the views of those gentlemen in Boston, who countenanced the Printers in shutting up the press against a fair and free investigation of this important system in the usual way.²⁰ The members of the convention have done their duty—why should some of them fly to their states—almost forget a propriety of behaviour, and precipitate measures for the adoption of a system of their own making? I confess candidly, when I consider these circumstances in connection with the unguarded parts of the system I have mentioned, I feel disposed to proceed with very great caution, and to pay more attention than usual to the conduct of particular characters. If the constitution presented be a good one, it will stand the test with a well informed people: all are agreed there shall be state conventions to examine it; and we must believe it will be adopted, unless we suppose it is a bad one, or that those conventions will make false divisions respecting it. I admit improper measures are taken against the adoption of the system as well as for it—all who object to the plan proposed ought to point out the defects objected to, and to propose those amendments with which they can accept it, or to propose some other system of government, that the public mind may be known, and that we may be brought to agree in some system of government, to strengthen and execute the present, or to provide a substitute. I consider the field of enquiry just opened, and that we are to look to the state conventions for ultimate decisions on the subject before us; it is not to be presumed, that they will differ about small amendments, and lose a system when they shall have made it substantially good; but touching the essential amendments, it is to be presumed the several conventions will pursue the most rational measures to agree in and obtain them; and such defects as they shall discover and not remove, they will probably notice, keep them in view as the ground work of future amendments, and in the firm and manly language which every free people ought to use, will suggest to those who may hereafter administer the government, that it is their expectation, that the system will be so organized by legislative acts, and the government so administered, as to render those defects as little injurious as possible.—Our countrymen are entitled to an honest and faithful government; to a government of laws and not of men; and also to one of their chusing—as a citizen of the country, I wish to see these objects secured, and licentious, assuming, and overbearing men restrained; if

the constitution or social compact be vague and unguarded, then we depend wholly upon the prudence, wisdom and moderation of those who manage the affairs of government; or on what, probably, is equally uncertain and precarious, the success of the people oppressed by the abuse of government, in receiving it from the hands of those who abuse it, and placing it in the hands of those who will use it well.

In every point of view, therefore, in which I have been able, as yet, to contemplate this subject, I can discern but one rational mode of proceeding relative to it; and that is to examine it with freedom and candour, to have state conventions some months hence, which shall examine coolly every article, clause, and word in the system proposed, and to adopt it with such amendments as they shall think fit. How far the state conventions ought to pursue the mode prescribed by the federal convention of adopting or rejecting the plan in toto, I leave it to them to determine. Our examination of the subject hitherto has been rather of a general nature. The republican characters in the several states, who wish to make this plan more adequate to security of liberty and property, and to the duration of the principles of a free government, will, no doubt, collect their opinions to certain points, and accurately define those alterations and amendments they wish; if it shall be found they essentially disagree in them, the conventions will then be able to determine whether to adopt the plan as it is, or what will be proper to be done.

Under these impressions, and keeping in view the improper and unadvisable lodgment of powers in the general government, organized as it at present is, touching internal taxes, armies and militia, the elections of its own members, causes between citizens of different states, &c. and the want of a more perfect bill of rights, &c.—I drop the subject for the present, and when I shall have leisure to revise and correct my ideas respecting it, and to collect into points the opinions of those who wish to make the system more secure and safe, perhaps I may proceed to point out particularly for your consideration, the amendment²¹ which ought to be ingrafted into this system, and²² only in conformity to my own, but the deliberate opinions of others—you will with me perceive, that the objections to the plan proposed may, by a more leisure examination be set in a stronger point of view, especially the important one, that there is no substantial representation in the people provided for in a government, in which the most essential powers, even as to the internal police of the country, is proposed to be lodged.

I think the honest and substantial part of the community, will wish to see this system altered, permanency and consistency given to the constitution we shall adopt; and therefore they will be anxious to apportion

the powers to the features and organization of the government, and to see abuse in the exercise of power more effectually guarded against. It is suggested, that state officers, from interested motives will oppose the constitution itself—I see no reason for this, their places in general will not be effected, but new openings to offices and places of profit must evidently be made by the adoption of the constitution in its present form.²³

1. In the second printing “it” was changed to “all.”

2. Alexander Pope, *An Essay on Man* . . . (London, 1758), Epistle III, 30. The third epistle was first published in 1733.

3. The text within angle brackets was reprinted in the *Massachusetts Gazette* on 1 February 1788 and in the *Newport Mercury* on 18 February. (See headnote above.)

4. For various attempts to strengthen the Articles of Confederation, see CDR, 140-74; CC:Vol. 1, pp. 11-34.

5. For the congressional resolution of 21 February 1787 calling the Constitutional Convention, see CC:1.

6. For the debate on the nature of Pennsylvania’s delegation to the Convention, see CC:150, note 5; and RCS:Pa., 112, 117-19, 185, 502, 504, 619-20.

7. For the delegates who did not attend the Constitutional Convention, see CC:Vol. 1, xlvii.

8. Rhode Island never sent delegates to the Convention. After two of New York’s three delegates left the Convention on 10 July, its vote was not counted.

9. In the second printing “ultimately” was changed to “intimately.”

10. The second printing reads: “vast labour and attention.”

11. In the second printing “bring” was changed to “oblige.”

12. At this point in the second printing the following was inserted: “lay and collect taxes, &c. seems clearly to favour the contrary opinion, and, in my mind, the true one, that congress shall have power to.”

13. In the second printing “alienable” was changed to “unalienable.”

14. For John Adams’s use of the term, “the well born,” see page x of the preface to his *Defence of the Constitutions*.

15. In Letter XI of *Letters from a Farmer in Pennsylvania*, John Dickinson stated: “A perpetual jealousy, respecting liberty, is absolutely requisite in all free-states.” See Paul Leicester Ford, ed., *The Writings of John Dickinson* (Philadelphia, 1895), 386. Letter XI was first published in the *Pennsylvania Chronicle* on 8 February 1768.

16. In the second printing “correspondents” was changed to “corresponds.”

17. In the second printing the word “all” was inserted here.

18. In the second printing “morrises” was rendered “m--ites.” The reference is to the followers of Robert Morris, the leader of Pennsylvania’s Federalists.

19. For the actions taken by Federalists on 28 and 29 September, inside and outside the Pennsylvania General Assembly, to guarantee the calling of a state ratifying convention, see CC:125.

20. For the refusal of some Boston printers, beginning on 10 October, to publish Anti-federalist material, see CC:131.

21. In the second printing “amendment” was changed to “amendments.”

22. In the second printing “and” was changed to “not.”

23. See note 3 above.

243. Centinel III Philadelphia Independent Gazetteer, 8 November

On 9 November an errata for "Centinel" III was printed in the *Independent Gazetteer*. The next day the *Pennsylvania Herald* reprinted "Centinel" III, with three of the four corrections. Because other errors still existed, the author requested that the Philadelphia *Freeman's Journal* reprint the essay with more corrections, stating that "The third number of the Centinel having been very inaccurately printed in the Independent Gazetteer, occasioned by the length of the piece and the shortness of the time, and from some omissions in the errata as published, the copy in the Herald is not entirely free from errors;—the author therefore requests you to republish it in your independent and impartial paper as corrected by himself." On 14 November the *Freeman's Journal* complied by printing "Centinel" III. For the corrections from the errata and those made in the *Freeman's Journal*, see the footnotes below.

In addition to appearing in the *Pennsylvania Herald*, the *Gazetteer's* version of "Centinel" III was reprinted, with three of the four corrections, in the Providence *United States Chronicle* on 3 January 1788. The *Journal's* version was reprinted in the *New York Journal* on 20 November, in the Boston *American Herald* on 7 January, and in a New York pamphlet anthology published in April 1788 (Evans 21344).

For replies to "Centinel" III, see "Portius," *Independent Gazetteer*, 12 November (Mfm:Pa. 220); and "Caroliniensis," *Charleston City Gazette*, 3 January.

For a discussion of the authorship, circulation, and impact of "Centinel," see CC:133.

TO THE PEOPLE OF PENNSYLVANIA

John 3d, verse 20th—"For every one that doeth evil, hateth the light, neither cometh to the light, lest his deeds should be reprov'd." But "there is nothing covered that shall not be revealed; neither hid that shall not be known. Therefore whatever ye have spoken in darkness, shall be heard in the light: and that which ye have spoken in the ear in closets, shall be proclaimed on the housetops." St. Luke, chap. xii, 2d and 3d verses.

Friends, Countrymen, and Fellow Citizens! The formation of a good government, is the greatest effort of human wisdom, actuated by disinterested patriotism; but such is the cursed nature of ambition, so prevalent among men,¹ that it would sacrifice every thing to its selfish gratification; hence the fairest opportunities of advancing the happiness of humanity, are so far from being properly improved, that they are too often converted to² the votaries of power and domination, into the means of obtaining their nefarious ends. It will be the misfortune of America of adding to the number of examples of this kind, if the proposed plan of government should be adopted; but I trust, short as the time allowed you for consideration is, you will be so fully convinced of the truth of this, as to escape the impending danger: it is only necessary to strip the monster of its assumed garb, and to exhibit it in its native

colours, to excite the universal abhorrence and rejection of every virtuous and patriotic mind.

For the sake of my dear country, for the honor of human nature, I hope and am persuaded, that the good sense of the people will enable them to rise superior to the most formidable conspiracy against the liberties of a free and enlightened nation, that the world has ever witnessed. How glorious would be the triumph! How it would immortalize the present generation in the annals of freedom!

The establishment of a government, is a subject of such momentous and lasting concern, that it should not be gone into without the clearest conviction of its propriety; which can only be the result of the fullest discussion, the most thorough investigation and dispassionate consideration of its nature, principles and construction. You are now called upon to make this decision, which involves in it, not only your fate, but that of your posterity for ages to come. Your determination will either ensure the possession of those blessings, which render life desirable, or entail those evils which make existence a curse:-that such are the consequences of a wise or improper organization of government, the history of mankind abundantly testifies. If you viewed the magnitude of the object in its true light, you would join with me in sentiment, that the new government ought not to be implicitly admitted. Consider then duly before you leap, for after the rubicon is once passed, there will be no retract.³

If you were even well assured that the utmost purity of intention predominated in the production of the proposed government, such is the imperfection of human reason and knowledge, that it would not be wise in you to adopt it with precipitation in toto, for all former experience must teach you the propriety of a revision on such occasions, to correct the errors, and supply the deficiencies, that may appear necessary. In every government whose object is the public welfare, the laws are subjected to repeated revisions, in some by different orders in governments, in others by an appeal to the judgment of the people and deliberative forms of procedure. A knowledge of this, as well as of other states, will show that in every instance where a law has been passed without the usual precautions, it has been productive of great inconvenience and evils, and frequently has not answered the end in view, a supplement becoming necessary to supply its deficiencies.

What then are we to think of the motives and designs of those men who are urging the implicit and immediate adoption of the proposed government; are they fearful, that if you exercise your good sense and discernment, you will discover the masqued aristocracy, that they are attempting to smuggle upon you, under the suspicious garb of repub-

licanism?—When we find that the principal agents in this business, are the very men who fabricated the form of government, it certainly ought to be conclusive evidence of their invidious design to deprive us of our liberties—The circumstances attending this matter, are such as should in a peculiar manner excite your suspicion; it might not be useless to take a review of some of them.

In many of the states, particularly in this and the northern states, there are aristocratic junto's of the *well-born few*, who had been zealously endeavouring since the establishment of their constitutions, to humble that offensive *upstart, equal liberty*; but all their efforts were unavailing, the *ill-bred churl* obstinately kept his assumed station.

However, that which could not be accomplished in the several states, is now attempting through the medium of the future Congress.—Experience having shewn great defects in the present confederation, particularly in the regulation of commerce and maritime affairs; it became the universal wish of America to grant further powers, so as to make the federal government adequate to the ends of its institution. The anxiety on this head was greatly increased, from the impoverishment and distress occasioned by the excessive importations of foreign merchandise and luxuries and consequent drain of specie, since the peace: thus the people were in the disposition of a drowning man, eager to catch at any thing that promised relief, however delusory. Such an opportunity for the acquisition of *undue* power, has never been viewed with indifference by the ambitious and designing in any age or nation, and it has accordingly been too successfully improved by such men among us. The deputies from this state (with the exception of two)⁴ and most of those from the other states in the union, were unfortunately of this complexion, and many of them of such superior endowments, that in an *ex parte* discussion of the subject by specious glosses, they have gained the concurrence of some well-disposed men, in whom their country has⁵ great confidence, which has given a great sanction to their scheme of power.

A comparison of the authority under which the convention acted, and their form of government will shew that they have despised their delegated power, and assumed sovereignty; that they have entirely annihilated the old confederation, and the particular governments of the several states, and instead thereof have established one general government that is to pervade the union; constituted on the most *unequal* principles, destitute of accountability to its constituents, and as despotic in its nature, as the Venetian aristocracy; a government that will give full scope to the magnificent designs of the *well-born*; a government where tyranny may glut its vengeance on the *low-born*, unchecked by an *odious bill of rights*: as has been fully illustrated in my two preceding numbers;⁶

and yet as a blind upon the understandings of the people, they have continued the forms of the particular governments, and termed the whole a confederation of the United States, pursuant to the sentiments of that profound, but corrupt politician Machiavel, who advises any one who would change the constitution of a state, to keep as much as possible to the old forms; for then the people seeing the same officers, the same formalities, courts of justice and other outward appearances, are insensible of the alteration, and believe themselves in possession of their old government.⁷ Thus Cæsar, when he seized the Roman liberties, caused himself to be chosen dictator (which was an ancient office) continued the senate, the consuls, the tribunes, the censors, and all other offices and forms of the commonwealth; and yet changed Rome from the most free, to the most tyrannical government in the world.

The convention, after vesting all the great and efficient powers of sovereignty in general government, insidiously declare by section 4th of article 4th, "that the United States shall guarantee to every state in this union, a republican *form* of government;" but of what avail will be the *form*, without the *reality* of freedom.

The late convention in the majesty of its assumed omnipotence, have not even condescended to submit the plan of the new government to the consideration of the people, the true source of authority; but have called upon them by their several constitutions,⁸ to "assent to and ratify"^(a) in toto, what they have been pleased to decree; just as the grand monarch of France requires the parliament of Paris to register his edicts without revision or alteration, which is necessary previous to their execution.

The authors and advocates of the new plan, conscious that its establishment can only be obtained from the ignorance of the people of its true nature, and their unbounded confidence in some of the men concurring; have hurried on its adoption with a precipitation that betrays their design: before many had seen the new plan, and before any had time to examine it; they by their ready minions, attended by some well-disposed but mistaken persons, obtained the subscriptions of the people to papers expressing their entire approbation of, and their wish to have it established; thus precluding them from any consideration: but lest the people should discover the juggle, the elections of the state conventions, are urged on at very early days; the proposition of electing the convention for this state in nine days after the date of the resolution for all counties east of Bedford, and supported by three or four of the deputies of the convention, and who were also members of the then assembly, is one of the most extravagant instances of this kind;⁹ and even this was only prevented by the secession of nineteen virtuous and enlightened

members.^{(b)10} In order to put the matter beyond all recal, they have proceeded a step further, they have made the deputies nominated for the state convention for this city and elsewhere, pledge their sacred honor, previous to their election, that they would implicitly adopt the proposed government, in toto;¹¹ thus short as the period is before the final fiat is to be given, consideration is rendered nugatory, and conviction of its dangers or impropriety unavailable. A good cause does not stand in need of such means; it scorns all indirect advantages and borrowed helps, and trusts alone to its own native merit and intrinsic strength: the lion is never known to make use of cunning, nor can a good cause suffer by a free and thorough examination—It is knavery that seeks disguise. Actors do not care that any one should look into the tiring room, nor jugglers or sharpers into their hands or boxes.

Every exertion has been made to suppress discussion by shackling the press; but as this could not be effected in *this* state, the people are warned not to listen to the adversaries of the proposed plan, lest they should impose upon them, and thereby prevent the adoption of this blessed government. What figure would a lawyer make in a court of justice, if he should desire the judges not to hear the counsel of the other side, lest they should perplex the cause and mislead the court? Would not every bystander take it for granted, that he was conscious of the weakness of his client's cause, and that it could no otherwise be defended, than by not being understood?

All who are friends to liberty are friends to reason, the champion of liberty, and none are foes to liberty but those who have truth and reason for their foes. He who has dark purposes to serve, must use dark means: light would discover him, and reason expose him: he must endeavor to shut out both, and make them look frightful by giving them ill names.

Liberty only flourishes where reason and knowledge are encouraged; and wherever the latter are stifled, the former is extinguished. In Turkey printing is forbid, enquiry is dangerous, and free speaking is capital; because they are all inconsistent with the nature of the government. Hence it is that the Turks are all stupidly ignorant and are all slaves.

I shall now proceed in the consideration of the construction of the proposed plan of government.—By section 4th of article 1st of the proposed government it is declared, “that the times, places, and manner of holding elections for senators and representatives shall be prescribed in each state by the legislature thereof; *but the Congress may at any time by law make or alter such regulations, except as to the place of chusing senators.*” Will not this section put it in the power of the future Congress to abolish the suffrage by ballot, so indispensable in a free government—Montesquieu

in his spirit of laws vol. 1 page 12, says "that in a democracy there can be no exercise of sovereignty, but by the suffrages of the people, which are their will; now the sovereigns will is the sovereign himself. The laws therefore which establish the right of suffrage, are fundamental to this government. In fact it is as important to regulate in a republic, in what manner, by whom, and concerning what, suffrages are to be given, as it is in a monarchy to know who is the Prince and after what manner he ought to govern."¹² This valuable privilege of voting by ballot, ought not to rest on the discretion of the government, but be irrevocably established in the constitution.

Will not the above quoted section, also authorise the future Congress, to lengthen the term for which the senators and representatives are to be elected, from 6 and 2 year respectively, to any period, even for life? As the parliament of England voted themselves from triennial to septennial; and as the long parliament under Charles the 1st became perpetual?

Section 8th of article 1st, vests Congress with power "to provide for calling forth the militia to execute the laws of the union, suppress insurrections and repel evasions;¹³ to provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the states respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress."—This section will subject the citizens of these states to the most arbitrary military discipline, even death may be inflicted on the disobedient; in the character of militia, you may be dragged from your families and homes to any part of the continent and for any length of time, at the discretion of the future Congress; and as militia you may be made the unwilling instruments of oppression, under the direction of government; there is no exemption upon account of conscientious scruples of bearing arms; no equivalent to be received in lieu of personal services. The militia of Pennsylvania may be marched to Georgia or New-Hampshire however incompatible with their interests or consciences;—in short they may be made as meer machines as Prussian soldiers.

Section the 9th begins thus.—"The migration or importation of such persons, as any of the states, now existing, shall think proper to admit, shall not be prohibited by Congress, prior to the year 1808, but a duty or tax may be imposed on such importation not exceeding ten dollars for each person." And by the fifth article this restraint is not to be removed by any future convention. We are told that the objects of this article, are slaves, and that it is inserted to secure to the southern states, the right of introducing negroes for twenty-one years to come, against the

declared sense of the other states to put an end to an odious traffic in the human species; which is especially scandalous and inconsistent in a people, who have asserted their own liberty by the sword, and which dangerously enfeebles the districts, wherein the laborers are bondmen. The words dark and ambiguous;¹⁴ such as no plain man of common sense would have used, are evidently chosen to conceal from Europe, that in this enlightened country, the practice of slavery has its advocates among men in the highest stations. When it is recollected that no poll tax can be imposed on *five* negroes, above what *three* whites shall be charged; when it is considered, that the impost on the consumption of Carolina field negroes, must be trifling, and the excise, nothing, it is plain that the proportion of contributions, which can be expected from the southern states under the new constitution, will be very unequal, and yet they are to be allowed to enfeeble themselves by the further importation of negroes till the year 1808. Has not the concurrence of the five southern states (in the convention) to the new system, been purchased too dearly by the rest, who have undertaken to make good their deficiencies of revenue, occasioned by their wilful incapacity, without an equivalent?

The general acquiescence of one description of citizens in the proposed government, surprises me much; if so many of the Quakers have become indifferent to the sacred rights of conscience, so amply secured by the constitution of this commonwealth; if they are satisfied, to rest this inestimable privilege on the discretion of the future government; yet in a political light they are not acting wisely; in the state of Pennsylvania, they form so considerable a portion of the community, as must ensure them great weight in the government; but in the scale of general empire, they will be lost in the ballance.¹⁵

I intended in this number to have shewn from the nature of things, from the opinions of the greatest writers and from the peculiar circumstances of the United States, the impracticability of establishing and maintaining one government on the principles of freedom in so extensive a territory; to have shewn, if practicable, the inadequacy of such government, to provide for its many and various concerns; and also to have shewn that a confederation of small republics, possessing all the powers of internal government, and united in the management of their general and foreign concerns, is the only system of government, by which so extensive a country can be governed consistent with freedom: but a writer under the signature of Brutus, in the New-York paper, which has been re-published by Messrs. Dunlap and Claypoole, has done this in so masterly a manner, that it would be superfluous in me to add any thing on this subject.¹⁶

My fellow citizens, as a lover of my country, as the friend to mankind, whilst it is yet safe to write, and whilst it is yet in your power to avoid it, I warn you of the impending danger. To this remote quarter of the world, has liberty fled—Other countries now subject to slavery, were once as free as we yet are; therefore for your own sakes, for the sake of your posterity, as well as for that of the oppressed of all nations, cherish this remaining asylum of liberty.

Philadelphia, November 5th, 1787.

(a) See resolution of Convention accompanying the instrument of the proposed government.¹⁷

(b) The message of the President and Council, sent into the present General Assembly, on the 27th of October last, discloses another imposition. The Board send to the House the official transmission of the proposed constitution of the United States, inclosed in a letter from the President of Congress, which proves that the paper produced to the last House on the day before the final rising of the same, was a surreptitious copy of the vote of Congress, obtained for the purpose of deluding the Legislature into the extravagance of directing an election of Convention within *nine* days.¹⁸

The provision made by the Convention of Pennsylvania, which sat in 1776 for amending the constitution, is guarded with admirable wisdom and caution. A Council of Censors is to be holden every seven years, which shall have power (two-thirds of the whole number elected agreeing) to propose amendments of the same government, and to call a Convention to adopt and establish these propositions; but the alterations must be “promulgated *at least* six months before the day appointed for the *election* of such Convention, for the *previous consideration* of the people, that they may have an opportunity of instructing their delegates on the subject.”¹⁹ The present measures explain the conduct of a certain party of the Censors, who sat in 1784, (much fewer than two-thirds of the whole) that proposed to abolish the 47th article of the constitution, whereby the manner of amending the same was regulated.²⁰

1. The *Freeman's Journal* version reads “so prevalent in the minds of men.”

2. In the *Gazetteer's* errata “to” was changed to “by.”

3. The *Gazetteer's* errata reads “retreat.” This correction was not made in the *Pennsylvania Herald* and *United States Chronicle*.

4. “Portius” identified Benjamin Franklin and Jared Ingersoll as the two exceptions (*Philadelphia Independent Gazetteer*, 12 November, Mfm:Pa. 220). Franklin and Ingersoll

were the only Pennsylvania delegates to the Constitutional Convention who were not members of the state Republican Party.

5. The *Freeman's Journal* version reads "have."
6. "Centinel" I and II, 5 and 24 October, CC:133, 190.
7. Leslie J. Walker, ed. and trans., *The Discourses of Niccolò Machiavelli* (2 vols., London, 1950), I, Book One, Discourse 25, pp. 272-73. *The Discourses* were first published in 1531, four years after Machiavelli's death.
8. In the *Gazetteer's* errata "constitutions" was changed to "conventions."
9. For the resolution referred to and for the version eventually adopted, see RCS:Pa., 65-67, 101-2. George Clymer, Thomas FitzSimons, Thomas Mifflin, and Robert Morris were the four assemblymen who had served in the Constitutional Convention.
10. For the secession of the Pennsylvania assemblymen, see CC:125.
11. See RCS:Pa., 227, 227n.
12. Book II, chapter II, 12.
13. The *Gazetteer's* errata reads "invasions."
14. The *Freeman's Journal* version reads "The words are dark and ambiguous."
15. "Portius" denounced "Centinel's" attempt "to work upon the passions of the Quakers," arguing that it was the Pennsylvania Antifederalists that Quakers had to fear. In support of his argument, "Portius" referred to the state Constitutionalists' opposition to the repeal of the Test Law that disenfranchised many Quakers (*Independent Gazetteer*, 12 November, Mfm:Pa. 220). "Caroliniensis" argued that "the quakers will not only retain their influence and importance in the state government of Pennsylvania but, as there will be no religious test, they will have weight, in proportion to their numbers, in the great scale of continental government" (*Charleston City Gazette*, 3 January 1788).
16. This is a reference to "Brutus" I, *New York Journal*, 18 October (CC:178), which was reprinted in the *Pennsylvania Packet* on 26 October.
17. See CC:76.
18. See RCS:Pa., 55, 99, 102n, and Mfm:Pa. 90.
19. Thorpe, V, 3091-92.
20. A reference to the state Republican Party which in 1783 elected a majority of delegates to the Council of Censors, but not the two-thirds majority necessary for the Council to call a constitutional convention. The Council met from November 1783 through January 1784. When it reconvened in June 1784, a majority of delegates in attendance were Constitutionalists. After heated debates, the Council resolved "That there does not appear to this Council an absolute necessity to call a convention, to alter, explain or amend the constitution."

244. A Citizen of Philadelphia The Weaknesses of Brutus Exposed, 8 November

Beginning on 9 November an advertisement, dated 8 November, appeared in the *Pennsylvania Packet* announcing the sale of a pamphlet entitled *The Weaknesses of Brutus Exposed: or, some Remarks in Vindication of the Constitution Proposed by the Late Federal Convention, against the Objections and Gloomy Fears of that Writer* (Evans 20872). The pamphlet, printed in Philadelphia, was "humbly offered to the public" by "A Citizen of Philadelphia" in response to "Brutus" I, which had been published in the *New York Journal* on 18 October (CC:178) and reprinted in the *Pennsylvania Packet* on 26 October.

The pamphlet was written by Pelatiah Webster, a Philadelphia merchant, who had written numerous political tracts under the pseudonym "A Citizen of Philadelphia." On 16 November Webster privately acknowledged authorship of the

pamphlet when he sent it, along with another of his pamphlets (CC:125-B), to James Bowdoin, former governor of Massachusetts. Four years later, Webster publicly acknowledged his authorship by including the pamphlet in a collection of his writings entitled *Political Essays on the Nature and Operation of Money, Public Finances, and Other Subjects* . . . (Evans 23972).

Webster admitted to Bowdoin that neither pamphlet contained "any novelty of the Tho'ts or force of the Reasonings. . . ." They were meant to "contain a kind of history of the Objections & Answers which prevail here [in Philadelphia], relative to the new Constitution . . ." (16 November, Bowdoin-Temple Papers, MHi). Bowdoin replied that the pamphlets contained "very just observations on" the Constitution, and he hoped that they would "be of public utility" (12 December, Winthrop Papers, MHi).

George Thatcher of Maine, a Massachusetts delegate to Congress, was impressed enough with Webster's answer to "Brutus" to send the pamphlet to Nathaniel Barrell, a York, Maine, Antifederalist farmer, who had been elected a delegate to the Massachusetts Convention. Barrell wrote Thatcher that the pamphlet "is wrote in that easy familiar stile which is ever pleasing to me. but tho it has a tendency to elucidate if not remove some objections to the federal constitution; yet I dare not say 'tis a full answer to the many objections against it . . ." (Boston, 15 January 1788, Chamberlain Collection, MB. See also David Sewall to George Thatcher, 5 January 1788, George F. Goodwin, ed., "The Thatcher Papers," *The Historical Magazine*, VI [1869], 261). "A Countryman" VI (Hugh Hughes) was more blunt. "The pamphlet, said to be written by P---h W---r," "a creature" of Robert Morris and "a child" of the Bank of North America, was remarkable both as "a farrago of falshood" and for its "want of reasoning" (*New York Journal*, 14 February 1788).

In addition to being offered for sale in Philadelphia, the pamphlet was also advertised in the Boston *Independent Chronicle* on 30 November and 6 December. The New York *Daily Advertiser* reprinted the first twenty of the pamphlet's twenty-three pages in four installments on 20, 23, 26 November, and 1 December. On the last date the *Advertiser* promised to continue publication, but failed to do so.

The long piece signed BRUTUS, (which was first published in a New-York paper, and was afterwards copied into the Pennsylvania Packet of the 26th instant) is wrote in a very good stile; the language is easy, and the address is polite and insinuating: but the sentiments, I conceive, are not only unsound, but wild and chimerical; the dreary fears and apprehensions, altogether groundless; and the whole tendency of the piece, in this important crisis of our politics, very hurtful. I have therefore thought it my duty to make some animadversions on it; which I here offer, with all due deference, to the Author and to the Public.

His first question is, *Whether a confederated government is best for the United States?*

I answer, If Brutus, or any body else, cannot find any benefit resulting from the union of the Thirteen States; if they can do *without* as well as *with* the respectability, the protection, and the security, which the States might derive from that union, I have nothing further to say: but

if that union is to be supported in any such manner as to afford respectability, protection, or security to the States, I say it must be done by an adequate government, and cannot be otherwise done.

This government must have a supreme power, *superior to and able to controul* each and all of its parts. 'Tis essential to all governments, that such a power be somewhere existing in it; and if *the place* where the proposed Constitution has fixed it, does not suit Brutus and his friends, I will give him leave to stow it away in any *other place that is better*: but I will not consent to have it *annihilated*; neither will I agree to have it *cramped and pinched* for room, so as to lessen its energy; for that will *destroy* both its nature and use.

The supreme power of government ought to be *full, definite, established, and acknowledged*. Powers of government too limited, or uncertain and disputed, have ever proved, like *Pandora's box*, a most fruitful source of quarrels, animosities, wars, devastation, and ruin, in all shapes and degrees, in all communities, states, and kingdoms on earth.

Nothing tends more to the honour, establishment, and peace of society, than public decisions, grounded on principles of right, natural fitness, and prudence; but when the powers of government are *too limited*, such decisions can't be made and enforced; so the mischief goes without a remedy: dreadful examples of which we have felt, in instances more than enough, for seven years past.

Further, where the powers of government are not *definite* but *disputed*, the administration dare not make decisions on the footing of impartial justice and right; but must temporise with the parties, lest they lose friends or make enemies: and of course the *righteous* go off injured and disgusted, and the *wicked* go grumbling too; for 'tis rare that any sacrifices of a court can satisfy a prevailing party in the state.

'Tis necessary in States, as well as in private families, that controversies should have a just, *speedy*, and effectual decision, that right may be done before the contention has *time* to grow up into habits of malignity, resentment, ill nature, and ill offices. If a controversy happens between two states, must it continue undecided, and daily increase, and be more and more aggravated, by the repeated insults and injuries of the contending parties, 'till they are ripe for the decision of the sword? or must the weaker states suffer, without remedy, the groundless demands and oppressions of their stronger neighbours, because they have no avenger, or umpire of their disputes?

Or shall we institute a supreme power with full and effectual authority to controul the animosities, and decide the disputes of these strong contending bodies? In the one proposed to us, we have perhaps every chance of a *righteous judgment*, that we have any reason to hope for; but

I am clearly of opinion, that even a *wrongful decision*, would, in most cases, be preferable to the continuance of such destructive controversies.

I suppose that neither Brutus nor any of his friends would wish to see our government *embroiled abroad*; and therefore will admit it necessary to institute some federal authority, sufficient to punish *any individual or State*, who shall violate our treaties with foreign nations, insult their dignity, or abuse their citizens, and compel due reparation in all such cases.

I further apprehend, that Brutus is willing to have the *general interest and welfare* of the States well provided for and supported, and therefore will consent that there shall exist in the states, an authority to *do all this effectually*; but he seems grieved that Congress should be the *judges of this general welfare* of the states. If he will be kind enough to point out any other more suitable and proper judges, I will consent to have them admitted.

Indeed I begin to have hopes of Brutus, and think he may come right at last; for I observe (after all his fear and tremblings about the new government) the constitution he *defines and adopts*, is the very same as that which the federal convention have proposed to us, *viz.* "that the Thirteen States should continue thirteen confederated republics under the *direction and controul* of a supreme federal head, for certain defined national purposes, only." Where we may observe,

1. That the new Constitution leaves all the Thirteen States, complete republics, as it found them, but all confederated under the direction and controul of a federal head, for certain defined national purposes only, *i. e.* it leaves all the dignities, authorities, and internal police of each State in free, full, and perfect condition; unless when national purposes make the controul of them by the federal head, or authority, necessary to the general benefit.

2. These powers of controul by the federal head or authority, are *defined* in the new constitution, as minutely as may be, in their principle; and any detail of them which may become necessary, is committed to the wisdom of Congress.

3. It extends the controuling power of the federal head to no one case, to which the jurisdiction or power of definitive decision of any one state, can be competent. And,

4. In every such case, the controuling power of the federal head, is absolutely necessary to the support, dignity, and benefit of the national government, and the safety of individuals; neither of which can, by any possibility, be secured without it.

All this falls in pretty well with Brutus's sentiments; for he does not think that the new Constitution in *its present state* so very bad, but fears

that it will not preserve its purity of institution; but if adopted, will immediately verge to, and terminate in a *consolidation*, i. e. a destruction of the state governments. For argument, he suggests the avidity of power natural to rulers; and the eager grasp with which they hold it when obtained; and their strong propensity to abuse their power, and encroach on the liberties of the people.

He dwells on the vast powers vested in Congress by the new Constitution, *i. e.* of levying taxes, raising armies, appointing federal courts, &c.; takes it for granted, that all these powers will be abused, and carried to an oppressive excess; and then harrangues on the dreadful case we shall be in, when our *wealth* is all devoured by taxes, our *liberty* destroyed by the power of the army, and our *civil rights* all sacrificed by the unbounded power of the federal courts, &c.

And when he has run himself out of breath with this dreary declamation, he comes to the conclusion he set out with, *viz.* That the Thirteen States are too big for a republican government, which requires *small territory*, and can't be supported in *more extensive nations*; that in large states liberty will soon be swallowed up, and lost in the magnitude of power requisite in the government, &c.

If any conclusion at all can be drawn from this baseless assemblage of gloomy thoughts, I think it must be *against any union at all*; against *any kind of federal government*. For nothing can be plainer than this, *viz.* that *the union can't by any possibility be supported with success, without adequate and effectual powers of government?*

We must have *money* to support the union, and therefore the power of raising it must be lodged somewhere; we must have *a military force*, and of consequence the power of raising and directing it must exist; civil and criminal causes of national concern will arise, therefore there must be somewhere a power of appointing *courts* to hear and determine them.

These powers must be vested in Congress; for nobody pretends to wish to have them vested in any other body of men.

The Thirteen States have a territory very extensive, and inhabitants very numerous, and every day rapidly increasing; therefore the powers of government necessary to support their union must be great in proportion. If the ship is large, the mast must be proportionably great, or it will be impossible to make her sail well. The federal powers must extend to every part of the federal territory, *i. e.* to the utmost limits of the Thirteen States, and to every part of them; and must carry with them, sufficient authority to secure the execution of them; and these powers must be vested in Congress, and the execution of them must be under their direction and controul.

These powers are *vast*, I know, and the trust is of the most *weighty kind* that can be committed to human direction; and the execution and administration of it will require the greatest *wisdom, knowledge, firmness, and integrity* in that august body; and I hope they will have all the *abilities and virtues* necessary to their important station, and will *perform their duty well*; but if they fail, the fault is in them, not in the constitution. The best constitution possible, even a divine one, badly administered, will make a bad government.

The members of Congress will be the best we can get; they will all of them derive their appointment from the States, and if the States are not wise enough to send *good and suitable* men, great *blame, great sin* will lie at their door. But I suppose nobody would wish to mend this fault by taking away the election of the people, and directing the appointment of Congress to be made in any other way.

When we have gotten the best that can be obtained, we ought to be quiet and cease complaining. 'Tis not in the power of human wisdom to do more; 'tis the fate of human nature to *be imperfect and to err*; and no doubt but Congress, with all their *dignity of station and character*, with all their *opportunities to gain wisdom and information*, with all their *inducements to virtue and integrity*, will err, and abuse or misapply their powers in more or less instances. I have no expectation that they will make *a court of angels*, or be any thing more than *men*: 'tis probable many of them will be *insufficient men*, and some of them may be *bad men*.

The greatest wisdom, care, and caution, has been used in the *mode* of their appointment; in the *restraints and checks* under which they must act; in the numerous *discussions and deliberations* which all their acts must pass through, before they can receive the stamp of authority; in the terrors of *punishment* if they misbehave. I say, in all *these ways* the greatest care has been used to procure and form a good Congress.

The *dignity and importance* of their station and character will afford all the inducements to virtue and effort, which can influence a mind *capable* of their force.

Their own *personal reputation*, with the eyes of all the world on them, — the *approbation of their fellow citizens*, which every man in public station naturally wishes to enjoy, — and the *dread of censure and shame*, all contribute very forceable and strong inducements to noble, upright and worthy behavior.

The *particular interest* which every member of Congress has in every public order and resolution, is *another strong motive* to right action. For every act to which any member gives his sanction, if it be raising an *army*, levying a *tax*, instituting a *court*, or any other act to bind the *States*, — such act will equally bind *himself, his nearest connections, and his posterity*.

Another mighty influence to the noblest principle of action will be *the fear of God before their eyes*; for while they sit in the place of God, to give law, justice, and right to the States, they must be *monsters indeed* if they do not regard *his law*, and imitate *his character*.

If all this will not produce a Congress fit to be trusted, and worthy of the public confidence, I think we may give the matter up as impracticable. But still we must make ourselves as easy as we can, under a *mischief* which admits *no remedy*, and bear with patience an *evil* which can't be cured: for a government we must have; there is no safety without it; though we know it will be imperfect, we still must prefer it to anarchy or no government at all. 'Tis the height of folly and madness to reject a necessary convenience, because it is not a perfect good.

Upon this statement of facts and principles (for the truth and reality of which, I appeal to every candid man,) I beg leave to remark,

1. That the federal Convention, in the constitution proposed to us, have exerted their utmost to produce *a Congress worthy of the public confidence*, who shall have *abilities* adequate to their important duty, and shall act under every possible inducement to execute it *faithfully*.

2. That this affords every chance which the nature of the thing will admit, of a wise and upright administration.

3. Yet all this notwithstanding, 'tis very possible that Congress *may err, may abuse, or misapply* their powers, which no precaution of human wisdom can prevent.

4. 'Tis *vain, 'tis childish, 'tis contentious* to object to a constitution thus framed and guarded, on pretence that the commonwealth may suffer by a bad administration of it; or to *withhold* the *necessary powers* of government, from the supreme rulers of it, least they should *abuse* or *misapply* those powers. This is an objection which will operate with equal force against every institution that can be made in this world, whether of policy, religion, commerce, or any other humane concern, which can require regulations: for 'tis not possible to form any institution however necessary, wise, and good, whose uses may not be lessened or destroyed by bad management.

If Brutus, or any body else, can point out any *checks, cautions, or regulations*, which have been hitherto omitted, which will make Congress more *wise, more capable, more diligent, or more faithful*, I am willing to attend to them. But to set Congress at the head of the government, and object to their being vested with full and sufficient power to manage all the great departments of it, appears to me *absurd, quite wild, and chimerical*: it would produce a plan which would destroy itself as it went along, would be a sort of counter position of contrary parts, and render

it impossible for rulers to render those services, and secure those benefits to the States, which are the only great ends of their appointment.

The constitution under Brutus's corrections, would stand thus, *viz.* Congress would have power to *raise money*, but must not direct the *quantity*, or *mode of levying* it; they might raise *armies*, but must not judge of the *number* of soldiers necessary, or direct their destination; they ought to provide for the *general welfare*, but must not be judges of what that welfare *consists in*, or in *what manner* 'tis to be provided for; they might controul the several States, for *defined national purposes*, but must not be judges of *what purposes* would come within that *definition*, &c.

Any body with half an eye, may see what sort of administration the constitution, thus corrected, would produce, *e. g.* it would require much greater trouble to leave the work *undone*, than would be necessary to get it *well done*, under a constitution of sufficient powers. If any one wishes to view more minutely this blessed operation, he may see a lively sample of it, in the last seven years practice of our federal government.

5. Brutus all along finds his objections, and fears on *extreme cases* of abuse or misapplication of supreme powers, which may *possibly* happen, under the administration of a wild, weak, or wicked Congress; but 'tis easy to observe that all institutions are liable to *extremes*, but ought not *to be judged by them*; they do not often appear, and perhaps never may; but if they should happen in the cases supposed, (which God forbid,) there is a *remedy pointed out, in the Constitution itself*.

'Tis not supposable that such abuses could arise to any ruinous height, before they would affect the States so much, that at least *two-thirds* of them would unite in pursuing a remedy, in the mode prescribed by the Constitution, which will always be liable to amendment, whenever any mischiefs or abuses appear in the government, which the Constitution in its present state, can't reach and correct.

6. Brutus thinks we can never be too much afraid of the *encroaching avidity of rulers*; but 'tis pretty plain, that however great the natural *lust of power in rulers* may be, the *jealousy of the people in giving it*, is about equal; these two opposite passions, will always operate in opposite directions to each other, and like *action and reaction* in natural bodies, will ever tend to a good ballance.

At any rate, the Congress can never *get* more power than the people will *give*, nor *hold* it any longer than they will *permit*; for should they assume tyrannical powers, and make incroachments on liberty without the consent of the people, they would soon atone for their temerity, with shame and disgrace, and probably with their heads.

But 'tis here to be noted, that all the danger does not arise from the extreme of power *in the rulers*; for when the ballance verges to the con-

trary extreme, and the power of the rulers becomes too much *limited and cramped*, all the nerves of government are weakened, and the administration must unavoidably sicken, and lose that energy which is absolutely necessary for the support of the State, and the security of the people. For 'tis a truth worthy of great attention, that laws are not made so much for the *righteous* as for the *wicked*; who never fail to shelter themselves from punishment, whenever they can, under the *defects of the law, and the weakness of government*.

I now come to consider the grand proposition which Brutus sets out with, concludes with, and interlards all along, and which seems to be the great gift of his performance, viz. *That a confederation of the Thirteen States into one great republic is not best for them*: and goes on to prove by a variety of arguments, that *a republican form of government is not compatible, and cannot be convenient to so extensive a territory as the said States possess*. He begins by taking one assumption for granted (for I can't see that his arguments prove it at all) viz. That the Constitution proposed will melt down and destroy the *jurisdiction* of the particular States, and *consolidate* them all into one great republic.

I can't see the least reason for this sentiment; nor the least tendency in the new Constitution to produce this effect. For the Constitution does not suffer the federal powers to controul in the least, or so much as to interfere in the internal policy, jurisdiction, or municipal rights of any particular State; except where great and manifest *national purposes and interests* make that controul necessary. It appears very evident to me, that *the Constitution gives an establishment, support, and protection to the internal and separate police* of each State, under the superintendency of the federal powers, which it could not possibly enjoy in an independent state. Under the confederation each State derives strength, firmness, and permanency from its compact with the other States. Like a stave in a cask well bound with hoops, it stands *firmer*, is not so easily *shaken, bent, or broken*, as it would be were it set up by itself alone, without any connexion with its neighbours.

There can be no doubt that each State will receive from the union great *support and protection* against the *invasions and inroads* of foreign enemies, as well as against *riots and insurrections* of their own citizens; and of consequence, the course of their internal administration will be secured by this means against any *interruption or embarrassment* from either of these causes.

They will also derive their share of benefit from the respectability of the union abroad, from the treaties and alliances which may be made with foreign nations, &c.

Another benefit they will receive from the controul of the supreme power of the union is this, *viz.* they will be restrained from making *angry, oppressive, and destructive laws*, from declaring *ruinous wars* with their neighbours, from fomenting *quarrels and controversies*, &c. all which ever *weaken* a state, tend to its fatal *disorder*, and often end in its dissolution. *Righteousness exalts and strengthens a nation; but sin is a reproach and weakening of any people.*

They will indeed have the privilege of oppressing *their own citizens* by bad laws or bad administration; but the moment the mischief extends beyond their own State, and begins to affect the citizens of other States strangers, or the national welfare,—the salutary controul of the supreme power will check the evil, and restore *strength and security*, as well as *honesty and right*, to the offending state.

It appears then very plain, that the natural effect and tendency of the supreme powers of the union is to give *strength, establishment, and permanency* to the internal police and jurisdiction of each of the particular States; not to *melt down and destroy*, but to *support and confirm* them all.

By what sort of assurance, then, can *Brutus* tell us that the new Constitution, *if executed, must certainly and infallibly terminate in a consolidation of the whole, into one great republic, subverting all the State authorities.* His only argument is, that the federal powers *may be corrupted, abused, and misapplied*, 'till this effect shall be produced. 'Tis true, that the constitution, like every other on earth, committed to human management, *may be corrupted by a bad administration*, and be made to operate to the *destruction* of the very capital benefits and uses, which were the great end of its institution. The same argument will prove with equal cogency, that the constitution of each particular State, may be corrupted in practice, become tyrannical and inimical to liberty. In short the argument proves *too much*, and therefore proves *nothing*: 'tis empty, childish, and futile, and a serious proposal of it, is, I conceive, an affront to the human understanding.

But after all, supposing this event should take place, and by some strange fatality, the several States should be melted down, and merged in the great commonwealth, in the form of counties, or districts; I don't see why *a commonwealth mode of government, would not be as suitable and convenient for the great State, as any other form whatever*; I cannot see any sufficient ground or reason, for the position pretty often and boldly advanced, *that a republican form of government can never be suitable for any nation of extensive territory, and numerous population*: for if Congress can be chosen by the several States, though under the form and name of *counties, or election districts*, and be in every respect, instituted as directed by the new constitution, I don't see but we shall have as suitable a *national*

council, as wise a *legislative*, and as strong and safe an *executive power*, as can be obtained under any form of government whatever; let our territory be ever so extensive or populous.

The most despotic monarch that can exist, must have his councils, and officers of state; and I can't see any one circumstance of their being appointed under a monarchy, that can afford any chance of their being any wiser or better, than ours may be. 'Tis true indeed, the despot may, if he pleases, act without any advice at all; but when he does so, I conceive it will be very rare that the nation will receive greater advantages from his unadvised edicts, than may be drawn from the deliberate acts and orders of our supreme powers. All that can be said in favour of *those*, is, that they will have less chance of delay, and more of secrecy, than *these*; but I think it probable, that the latter will be grounded on better information, and greater wisdom; will carry more weight, and be better supported.

The Romans rose, from small beginnings, to a very great extent of territory, population, and wisdom; I don't think their constitution of government, was near so good as the one proposed to us, yet we find their power, strength, and establishment, were raised to their utmost height, under a *republican form of government*. Their State received very little acquisition of territory, strength, or wealth, after their government became imperial; but soon began to weaken and decay.

The *Carthaginians* acquired an amazing degree of strength, wealth, and extent of dominion, under a *republican form of government*. Neither *they* or *the Romans*, owed their dissolution to any causes arising from *that kind of government*: 'twas the *party rage*, animosity, and violence of their citizens, which destroyed them both; it weakened them, 'till *the one* fell under the power of their enemy, and was thereby reduced to ruin; *the other* changed their form of government, to a monarchy, which proved in the end, equally fatal to them.

The same causes, if they can't be restrained, will weaken or destroy any nation on earth, let their form of government be what it will; witness the *division and dissolution* of the Roman empire; the late *dismemberment of Poland*; the intestine divisions, rage, and wars of *Italy*, of *France*, of *Spain*, and of *England*.

No form of government can preserve a nation which can't controul the party rage of its own citizens; when any one citizen can rise *above the controul* of the laws, *ruin* draws near. 'Tis not possible for any nation on earth, to hold their strength and establishment, when the dignity of their government is lost, and this dignity will forever depend on the *wisdom* and *firmness* of the officers of government, aided and supported by the *virtue* and *patriotism* of their citizens.

On the whole, I don't see but that any form of government may be safe and practicable, where the controuling authority of the supreme powers, is strong enough to effect the ends of its appointment, and at the same time, sufficiently *checked* to keep it within due bounds, and limit it to the objects of its duty; and I think it appears, that the constitution proposed to us, has all these qualities in as great perfection, as any form we can devise.

But after all, the *grand secret of forming a good government*, is, to put good men into the administration: for wild, vicious, or idle men, will ever make a bad government, let its principles be ever so good; but grave, wise, and faithful men, acting under a good constitution, will afford the best chance of security, peace, and prosperity, to the citizens, which can be derived from civil police, under the present disorders, and uncertainty of all earthly things.

Philadelphia, Nov. 4, 1787.

FINIS.

**245. St. John de Crevecoeur to Thomas Jefferson
New York, 9 November¹**

I am much obliged to you for your Last Letter, as well as for the Various & Interesting details it contained concerning the State of our National affairs—great Indeed is the Change Lately brought about in the disposition of that Country;—but who Cou'd have foreseen that the Parliaments Shou'd have Shew'd such a Spirit of opposition to the Establishmt. of Provincial assemblies? it wou'd seem as if they were Jealous of those new Institutions—dont you think that the Time is now come to break those antiquated bodys & with the fragments to Establish Supreme Courts, solely for the Tryal of Causes; we See something Similar here—the new Constitution now in every body's hands seem also to meet with Considerable opposition, particularly in this State & in Pennsylvania some people seem considerably alarmed—but yet I trust to the good Sense of the Inhabitants—I Trust that every man who [is] attached to ye Glorey & happiness of his Country, as well as to his property will be for it,—old as I am I cou'd even fight for the admission of this new federal govt.—now or never.—

if this new Constitution fails I will do every Thing in my Power to Leave this Country which will become the Scene of anarchy & Confusion—what an Interesting Journey your Last must have been! I'd give a good deal to see the Sketch of your observations;—I Learnt the other day from Mr. Maddisson with great pleasure, that Congres had reappointed you their Plenipotentiary—may you soon be that of a strongly united nation—

[P.S.] Mille Compliments a Mr. Short S il vous Plait Jay soigneusement fait passer Touttes ses Lettres & Packets.

1. RC, Jefferson Papers, DLC. Jefferson recorded this letter as received on 21 December in his "Summary Journal of letters" (Boyd, XII, 332n).

**246. James Kent to Nathaniel Lawrence
Poughkeepsie, 9 November¹**

I have not had leisure till now, owing to one intervening circumstance & another, to answer your favor of some time since on the politics of the Day—You expressed your Sentiments quite unfavorably of the new Constitution, & tho you acknowledged that our only alternative if we rejected it, was to expect our next form of Government from the Sword, yet you seemed to be in doubt whether it would not be our least evil to take our chance of a new one & reject it.—I do not wish my Friend, to make our friendly Correspondence the Subject of altercation & therefore I shall not dwell on the Subject—I however certainly know in my Conscience that my Heart, as far as it engages itself in public Concerns, is ardently attached to the true Spirit & the true Principles of Liberty; & If I did believe with you, that the Government would necessarily introduce an aristocracy, I would run any Hazard rather than submit to so odious a dominion. The new System like all other human Institutions has considerable Defects. I have read the Pamphlet from the federal farmer to the Republican² & most of the other publications on the Subject & I think the first particularly has illustrated those Defects in a candid & rational manner—But still I do not think, it tends to an aristocracy in my Idea of the word, but that it has all the essential features of a well ballanced representative republic—The Pamphlet above alluded to calls men of talents & Property the natural Aristocracy of the Country—In that Case I trust & hope I shall always be governed by an aristocracy—But to consider an aristocracy, as I have always considered it, as defining a Government of a few permanent Nobles independent of & not chosen by nor amenable to the great body of the People, In that Case I think the assertion that the constitution would necessarily introduce an aristocracy, to be unsupported by a single argument drawn from the Principles or tendency of the System—This is modestly *my Opinion*, but as I said before, I do not mean to make my correspondence the vehicle of Dispute & therefore I will now adhere more steadily to my first word of dismissing the Subject.

How much more soothing to the mind & awakening to the tender & elegant Sentiments of the Heart are the Studies of Poetry, History & Philosophy? I speak this not from affectation, but from recent experience—I find all the political Disputes I have had here only tend to sour

the mind & leave the combatants more irritated at Opposition & more confirmed in their Opinions than before—In Politics as in Religion, it is only the Progress of time, & calm temperate Discussions that can make converts—Persecution indeed, whenever that is made use of, always multiplies the Party that is persecuted—but that is a most outrageous violation of the rights of Humanity & I hope it never may be begun in the utmost violence of Party—You see I mean to be cool & a man of moderation. Every Person is entitled to his Opinion & I would no sooner quarrel with my Friend for differing with me on a speculative point of Politics, than on one of Religion—I hope your professional affairs are promising & that you have no reason to adopt the maxim which is sometimes propagated, that men of talents are neglected—In some cases, it certainly is the case & Dunces are elevated to a most profitable flow of Business. But this cannot continue long in general when things are in their natural settled order—I wish I could know what your general Employment is, & whether you are silently preparing to undermine the reputation of Coke by setting him below the top of his Profession. I have just been reading Smith *on the Wealth of Nations* & he has taught me to look with an unfavorable eye on monopolies—But a monopoly of the mental kind I take to be laudable & an exception to the Rule—

I hope Mrs. Lawrence is better than when you wrote last—

1. RC, Dreer Collection, American Lawyers, PHi. Kent (1763–1847), a Poughkeepsie lawyer, and Lawrence (1761–1796), a Queens County lawyer, had studied law together under New York attorney general Egbert Benson. Kent became a judge of the New York Supreme Court in 1798 and chancellor of the state Court of Chancery in 1814. Lawrence represented Queens County in the state Convention, where he voted to ratify the Constitution in July 1788.

2. See CC:242.

247. Uncus

Maryland Journal, 9 November

“Uncus” is an answer to “Centinel” I and II (CC:133, 190), which had been reprinted in the *Maryland Journal* on 30 October and 2 November. “Uncus” was the only major critique of “Centinel” to originate outside of Pennsylvania. It was reprinted in the Boston *American Herald* on 10 December and in the Providence *United States Chronicle* on 10 January 1788. For additional criticism of “Centinel” by “Uncus,” see the *Maryland Journal*, 30 November.

Mr. GODDARD, When you began publishing the *Centinel* in numbers, I expected we should have had one in each of your papers for some weeks, hoping, that after he had done finding fault with the doings of the late convention, the members of which were either too designing, – of too aristocratic principles, – too old, – or too ignorant, “inexperienced and fallible,” for business of such magnitude; *he* would, by the *perfect rule*

existing in his own mind, by which he has tried and condemned the proposed constitution, exhibit to the world a perfect model; which these States would have only to read, and invite "those who are competent to the task of developing the principles of government," to come forward, approve and adopt.

If *Centinel* has not done writing, I wish you would not cease publishing his numbers. Do let him enjoy *full liberty of the press*. A man who can so easily pervade the breasts of men, reducing to mere machines, characters, who have been as much revered in Europe, for their wisdom, as idolized in America for the rectitude of their conduct; and can prove them *wholly* disqualified for what they have ever been thought, and it seems nature herself had designed them; must certainly be *competent to the task of not only developing the principles of government, but the radical and secondary causes, by which every man is actuated; and can inform the United States, when they have made a proper, or an improper choice of men, to the highest posts in office.*

DOCTOR FRANKLIN's character, both as politician and legislator, is too securely established in the mind of every American, to be reached by the pen, or sullied by the ink of *Centinel*. And to say that the "unsuspecting goodness" of General WASHINGTON should cause him tamely to see a people, for whom he had with his sword, for ten years exposed his life and fortune, enslaved by a few designing men, is as great an insult to his vigilance, as to say, that he was an inexperienced legislator was false. For many years before the war, he was a member of the assembly in Virginia. He was a member of the first AMERICAN CONGRESS; and of his superior abilities as a legislator, his CIRCULAR-LETTER and other writings abundantly prove.¹

It is a vulgar saying, that a *Bear* with a *sore head* will growl in the *serenest weather*, tho' at liberty to range unmolested through the most *luxuriant fields, orchards and vineyards, loaded with the most delicious fruits*. What has been the cause of *Centinel's sore head*, in what his great disappointment consists, or what are his *terrible fears*, is to me unknown; but, that it would have been impossible for the late Convention to have pleased him, I think is sufficiently evident, by his declaring *two characters* incapable of holding seats there, for which, not only America, but perhaps all Europe, would have thought of all others the most suitable. Of other characters he complains and of none does he speak favourably.

It would be useless to *refill* a news-paper with repetition of the *Centinel's* objections—*Nothing done by the Convention pleases him!* In No. 1, he says, "if it were not for the stability and attachment which time and habit give to government, it would be in the power of the enlightened and aspiring, if they should combine, at any time, to destroy the best

establishments"—If this be true, the forming a bill of rights would have been as needless as its existence would have been useless;—for, in the *first* instance, *it* would be no kind of security to the people—and in the *last*, the people do not want such a security, having already *every* "*stability and attachment which time and habit*" can render necessary to fix in their minds, the greatest horror of tyranny, and the most sacred and exalted ideas of *that liberty*, which they have *ever* enjoyed, and to which they know they are entitled. Speaking of the constitution of Great-Britain he says, "the only operative and efficient check upon the conduct of administration, is *the sense of the people at large*;" and are not *the sentiments of "the people at large"* of these States, as *tenacious of their liberties* as those of England?

To proceed with the contradictions and inconsistencies of Centinel, would perhaps be thought an insult to the understanding of an enlightened community; but would not much ink have been saved, and the little expended to better purpose, had he declared, in *a few words*, that man is *an imperfect creature*, and, that owing to a difference of constitution, climate and education, he did not believe they would ever all think *exactly* alike; and, as it was not *certain* that, *even* should a law, dictated by *that wisdom* which cannot err, be offered *them*, they would all agree to it, it would be the *best* to have *none*?

The *Centinel* seems almost *expiring with fear*, for "*the liberty of the press*"—By his idea of the subject, one would think he had just made his escape from a *Turkish Haram*, or had been buoyed from the gloomy regions of a *Spanish mine*. It is almost impossible that a man, who was educated in any of the Christian nations of Europe, and really so, that any one, who is an inhabitant of any of the United States of America, should be ignorant that "*the liberty of the press*" is what the people, for whom the late Convention were acting, look upon as a privilege, with which every inhabitant is born;—a right which Nature, and Nature's God, has given, and too sacred to require being mentioned in the national transactions of these states. Had *it* been reserved by a particular article, posterity might imagine *we* thought *it wanted* written laws for security; an idea we would not choose should disgrace the legislature of the United States. If in England, "the only operative and efficient check upon the conduct of administration is *the sense of the people at large*," what *greater* security for the "*liberty of the press*" would the *Centinel* wish for, than "*the sense of the people at large*" of these states.

The "*sense of the people at large*" obliges the august Emperor of China, once a year, to hold the plough—the "*sense of the people at large*" obliged David, absolute monarch of Israel, to "go forth and speak comfortably to the people."—*It*, in a great degree, influences the Monarch of France, and *it* has ever had great influence on the court of Great-Britain;—and

when we reflect how well acquainted each member of the Convention were with "*the sense of the people at large*" of these states, is it not surprising, with what minuteness they have barred against *every encroachment* upon the liberties of the people, which would not have disgraced "*the sense of the people at large,*" whom *they* represented? *No man* can possibly be admitted into Congress, unless born, or having resided within these states for a term of years sufficient for him to inform himself of "*the sense of the people at large,*" for whom he is to make laws.

In art. 1, sect. 5, it is ordained, that "each house shall keep a journal of its proceedings, and, from time to time, publish the same," &c.—In the same article, sect. 7, it is ordained, "that the names of the persons voting for, and against a bill, shall be entered on the journals of each house respectively;" that those, who vote contrary to the minds [of] their constituents, may be exposed. Should Congress, *for once*, unfortunately be composed of the *Centinel's* "*aristocratical junto,*" they will have but two years to abuse the confidence, which the people have placed in them, before part of "that *aristocratic junto*" must leave the house, to make room for others, who will be a restraint upon the remainder, by retarding their iniquitous proceedings, and punctually informing their constituents of their *breach of trust*.

I believe, there is not a single article, wherein the *new plan* has proposed any amendment to the *old*, but what would be objected to by *Centinel*. To some he has objected, where they have made no amendment; as the power of Congress to try causes without a jury, which they have ever possessed.

For want of facts to allege, how sophistically does *Centinel* strive to pervert the meaning of the 6th article—when, it expressly says, that all treaties made, or which shall be made, under the authority of the United States, "shall be the supreme law of the land;"—meanly endeavouring to convey an idea to his readers, that, by granting to Congress the power of forming a constitution for making treaties, and transacting the business of the Union, which shall be "the supreme law of the land," the power of Congress must, "necessarily, absorb the state legislatures and judicatories; and that such was the contemplation of the framers of it."—An assertion as abusive to the characters who composed that truly respectable body, as impossible to be drawn from the *letter*, and evident meaning of that article.

So decided have the Convention been in not infringing upon the internal police of the states, that they ordain in art. 4, sect. 4, that Congress shall not only allow, but "shall guarantee to every state in the Union, a republican form of government," and shall support them in the same, against either external or internal opposition. But, says *Cent-*

tinel, "Congress are to have power to lay and collect taxes, duties, imposts and excises," &c.—A *great absurdity indeed*, that a body, who are under an absolute necessity of contracting debts, should be in possession of *any means* by which they can discharge them! The *Centinel* is far more unreasonable than were the *Egyptian* task-masters;—they demanded brick without straw; but the Israelites could, possibly, collect stubble for a substitute. *He growls* that "Congress have power to lay and collect taxes, duties, imposts and excises," without providing *even stubble* for a substitute. A news-paper could not contain observations on *each* of the objections made by the *Centinel*. He says "*the sense of the people at large*," secures the liberty enjoyed by the subjects of Great Britain.—We know *it* has gained America her freedom—of which spirit he appears sensible, by quoting "the attempt of Governor Colden, of New-York, before the revolution, to re-examine the facts, and re-consider the damages in the case of *Forsey* and *Cunningham*,² produced about the year 1764, a flame of patriotic and successful opposition that will not be easily forgotten:—The cause of which opposition was, "the *patriotic flame*" which arose from among the people; since which, *that patriotic spirit* has been gaining strength by exertion, and stability by establishment:—And yet, *he* asserts that *this spirit of patriotism* will, without the least opposition, resign its liberties to Congress whenever they shall be demanded.—It would be, perhaps, the only instance in nature, wherein the effect, increasing regularly with the cause, at last, while the cause is still acting with full vigor, the effect entirely gets the better of the cause, and acts directly against it.

The *Centinel's* long and laboured harangue respecting courts of justice being appointed by Congress in each State, to try common actions of debt, &c. must be a creature of his own designing, or deluded imagination. To fix that matter beyond the reach of dispute, the new proposed plan has expressly limited the jurisdiction of Congress, as to such authority; "to exercise exclusive legislation in all cases whatever, over such districts, (not exceeding ten miles square) as may, by cession of particular States and acceptance of Congress, become the seat of government of the United States; and to exercise like authority over all places purchased by the consent of the legislature of the State, in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings, &c." The authority which the proposed plan gives to Congress, to form treaties, regulate trade, decide disputes between different States, and between individuals respecting lands &c. the *Centinel* seems either artfully, or ignorantly to suppose, they can and *will exercise*, respecting the internal police of each State.

Does the new proposed plan give Congress more power than is absolutely necessary they should possess, to enable them to act for the interest—secure the trade—protect and support the honour of the States? If not, is it not absurd to object by saying, when they are in possession of *this* they can soon gain *more*? By this rule they never must have *any*. Most people no doubt, will agree with *Centinel*, in this particular, that the freedom of a nation does not so much depend on what a piece of parchment may contain,—as their virtue,—ideas of liberty—and “*the sense of the people at large.*” It was not *Magna Charta* written on parchment, which united the English Barons to oppose King John; but, the united opposition of the Barons that *forced* from King John *Magna Charta*. Is it a sufficient reason to debar a *virtuous people* from the benefit of any laws, because perfect ones would not constitute the happiness of a *vicious people*?

When the Americans shall have lost their virtue—when those sentiments of liberty which pervade the breasts of freemen, shall cease to glow in their bosoms, *bills of right* will not secure their liberties. But whilst they practice *virtue*, and retain *those sentiments*,—from whence can a *Congress* be collected, who will *dare* infringe their liberties; or be ignorantly hardy enough to attempt “*the liberty of the press.*” Should it be thought best at any time hereafter to amend the plan; sufficient provision for it is made in Art. 5, Sect. 3, without placing ourselves in the situation of a conquered people; or being obliged, like the devoted Poles, when divided among three powers, to sue for such *conditions* as we could obtain.

Baltimore, November 8.

1. For Washington's circular letter of June 1783 to the state executives, see CC:4.

2. For the case of *Forsey v. Cunningham* and the issue of the appeal of jury verdicts, see Milton M. Klein, “Prelude to Revolution in New York: Jury Trials and Judicial Tenure,” *William and Mary Quarterly*, 3rd series, XVII (1960), 439-62.

248. William Grayson to William Short New York, 10 November (excerpts)¹

I have received your favor, for which I am much obliged; the Convention at Philadelphia about which I wrote you, have at length produced (contrary to expectation) an entire new constitution; This has put us all in an uproar:—Our public papers are full of attacks and justifications of the new system: And if you go into private companies, you hear scarcely any thing else:—In the Eastern states the thing is well received; the enemies to the Constitution say that this is no wonder, as they have overreached the Southern people so much in it's formation: In this State, I believe there is a great majority against it: the reason assigned by it's

favorers is that they derives great advantages by imposing duties on ye. imports of Jersey & Connecticut,²-In Jersey, nothing is more popular

There was something singular in the affair which is that the one was determined to adopt & the other to reject the new constitution before it had made its appearance.-In Pensylvania matters are warmly contested by the Republicans and Constitutionals, but from what I have heard lately I think the former will carry their point; by this I mean that there will be a majority in favor of the new constitution.-In Delawar & Maryland I hear of little or no opposition, though in the latter some was expected from Chase & Paca. In Virginia there is a very considerable one; Ben. Harrisson Genl. Nessen,³ Patrick Henry, Thruston,⁴ Zane,⁵ Rich. H. Lee, & Co.-George Mason, most of the Judges of the Genl. Court cum multis aliis of the inferior flanking parties are inlisted as opponents: Genl. Washington however who is a host within himself is strongly in favor of it, & I am at a loss to determine how the matter will be ultimately closed.-As to the two Carolinas & Georgia, I have not yet heard much about them; the general supposition is that it will go down very smoothly in those regions; as to the latter it is highly probable, as she is at present very much embarassed with an Indian war, and in great distress; and as she will pay nothing under any government it is very immaterial to her how many changes are effected; this latter observation will apply in a great degree to some of her neighbors.

With respect to my own sentiments I own I have important objections:-In the first place I think liberty a thing of too much importance to be trusted on the ground of *implication*: it should rest on principles expressed in the clearest & most unequivocal manner. A bill of rights ought then to have preceded. tryals by jury should have been expressly reserved in Civil as well as Criminal cases.

The press ought to have been declared free-I think the foederal Courts in the different states wrong-One Court at the session of Congress with appellative jurisdiction in the cases mentioned in the proposed constitution would have been sufficient.

The representation in the Senate ought to have been in the same proportion as the lower house, except in a few cases merely of a foederal nature where the little States should be armed with a repulsive quality to preserve their own existence.

The power of regulating commerce by a bare majority and that of taxing will ruin the Southern States; and the proposed method of making treaties i.e., by two thirds of the Senators *present* will be the means of losing the Mississippi for ever:-Indeed we have had great difficulty to prevent it from destruction for two years past.⁶

In these & several other instances which I could enumerate, I think the generarility will have too much power, but there are points where I

don't think they have power enough: In order to face foreign powers properly & to preserve their treaties & their faith with them, they should have had a negative upon the State laws with sevl other incidental powers-Witht. this I am satisfied the new government if adopted will in a year or two be as contemptible as the present.-Upon the whole I look upon the new system as a most ridiculous piece of business-something (entre nous) like the legs of Nebuchadnezar's image: It seems to have been formed by jumbling or compressing a number of ideas together, something like the manner in which poems were made in Swift's flying Island.⁷ How ever bad as it is, I believe it will be crammed down our throats rough & smooth with all it's imperfections: the temper of America is changed beyond conception since you were here, & I believe they were ready to swallow almost any thing. . . .

Mr. Adams has lately been recalled according to his request. . . . Mr. Adams returns with the intire *approbation* of Congress. In *general* I think (between you and me) that he and his book are thought of nearly in the same manner in this country. . . .

[N.B.]Inclosed are the papers of the day. You are not [to] suppose I mean to reflect on the members of the Convention: I highly respect the chief of them: but they could not act otherwise so circum[stanced?].

1. RC, Short Papers, DLC. The first page was marked by Grayson: "By favor of Commodore Jones." It was endorsed by Short as received on "Dec. 21." For a longer excerpt, see LMCC, VIII, 678-80. Grayson (c. 1736-1790), a Prince William County lawyer, represented Virginia in Congress from 1785 to 1787. He voted against ratification of the Constitution in the state Convention in June 1788 and was elected to the U.S. Senate in November 1788.

2. It was generally reported that residents of New Jersey and Connecticut indirectly paid as much as £40,000 and £50,000, respectively, in New York import duties each year. Under the Constitution, this revenue would accrue to the central government.

3. Thomas Nelson.

4. Charles Mynn Thruston (1738-1812), a planter, represented Frederick County in the Virginia House of Delegates from 1782 to 1783 and from 1785 to 1788.

5. Probably Isaac Zane (d. 1795), a merchant, miller, and distiller who represented either Frederick or Shenandoah counties in the House of Burgesses and House of Delegates from 1773 until his death.

6. For the dispute over the right to navigate the Mississippi River and the Jay-Gardoqui treaty negotiations, see CC:46.

7. See Jonathan Swift's description of how poetry was written at the Academy of Lagado on Laputa, the flying island, in *Gulliver's Travels*, Part III, chapter V. *Gulliver's Travels* was first published in 1726.

249. David Ramsay to Benjamin Rush Charleston, 10 November¹

As I suppose your convention is about convening & that you are a member I shall take the liberty of suggesting my wishes on the subject.

I am ready & willing to adopt the constitution without any alteration but still think objections might be obviated if the first state convention

after accepting in its present form would nevertheless express their approbation of some alterations being made on the condition that Congress & the other States concurred with them. I think this would cause no delay nor would it endanger the acceptance of the constitution. If the clause which gives Congress power to interfere with the State regulations for electing members of their body² was either wholly expunged or altered so as to confine that power simply to the cases in which the States omitted to make any regulations on the subject I should be better pleased. I wish also that there might be added some declaration in favor of the liberty of the Press & of trial by Jury. I assent to Mr Wilsons reasoning that all is retained which is not ceded;³ but think that an explicit declaration on this subject might do good at least so far as to obviate objections. Should your State adopt this line of conduct (as it will doubtless take the lead) it would probably be followed by the others. The necessity of another convention would be obviated. I would not make these alterations conditions of acceptance: I would rather trust to the mode of alteration proposed in it than hazard or even delay the acceptance of the proposed plan. I think it ought to be matter of joy to every good citizen that so excellent a form of government has passed the convention. It promises security at home & respectability abroad I do not think any people could be long happy without ballances & checks in their constitutions: nor do I concieve it possible to organise a government with the three necessary checks on more unexceptionable principles out of homogeneous materials than has been done by the convention. It is an apt illustration of the Trinity. The whole power is from one source that is the people & yet that is diversified into three modifications with distinct personal properties to each. Its origin is the voice & its end the good of the people.

1. RC, Rush Papers, PPL. Ramsay (1749–1815), a Charleston, S.C., physician and historian, had studied medicine with Rush in Philadelphia. Ramsay represented Charleston in the state House of Representatives from 1776 to 1790 and was a delegate to Congress from 1782 to 1785. He voted to ratify the Constitution in the state Convention in May 1788.

2. Article I, section 4, clause 1.

3. See James Wilson's speech of 6 October (CC:134).

250. George Washington to Bushrod Washington Mount Vernon, 10 November (excerpt)¹

... That the Assembly would afford the People an opportunity of deciding on the proposed Constitution I had scarcely a doubt,² the only question with me was whether it would go forth under favourable auspices or receive the stamp of disapprobation—The opponents I expected, (for it has ever been that the adversaries to a measure are more assid-

ous active than its Friends) would endeavor to stamp it with unfavourable impressions in order to bias the Judgment that is ultimately to decide on it, this is evidently the case with the writers in opposition, whose objections are better calculated to alarm the fears than to convince the Judgment of their readers. They build their objections upon principles that do not exist which the Constitution does not support them in—and the existence of which has been by an appeal to the Constitution itself flatly denied—and then, as if they were unanswerable—draw all the dreadful consequences that are necessary to alarm the apprehensions of the ignorant or unthinking.—It is not the interest of the Major part of those characters to be convinced, nor will their local views yield to arguments which do not accord with their present, or future prospects.—A Candid solution of a single question to which the plainest understanding is competent does, in my opinion, decide the dispute.—namely is it best for the States to unite—or not to unite?—If there are men who prefer the latter—then unquestionably the Constitution which is offered *must*, in their estimation, be wrong from the words we the People to the signature inclusively; but those who think differently and yet object to parts of it, would do well to consider that it does not lye with any *one* State, or the *minority* of the States [to] Super Struct a Constitution for the whole.—The seperate interests, as far as it is practicable, must be consolidated—and local views must be attended to, as far as the nature of the case will admit.—Hence it is that every State has some objection to the present form and these objections are directed to different points.—that which is most pleasing to one is obnoxious to another, & so vice versa.—If then the Union of the whole is a desirable object, the componant parts must yield a little in order to accomplish it. Without the latter, the former is unattainable, for again I repeat it, that not a single State nor the minority of the States can force a Constitution on the Majority—but admitting the power it will surely be granted that it cannot be done without involving scenes of civil commotion of a vary serious nature let the opponants of the proposed Constitution in this State be asked, and It is a question they certainly ought to have asked themselves.—what line of conduct would they advise it to adopt, if nine other States, of which I think there is little doubt, should accede to the Constitution?—would they recommend that it should stand single?—Will they connect it with Rhode Island? or even with two others checkerwise and remain with them as outcasts from the Society, to shift for themselves? or will they return to their dependance on Great Britian?—or lastly have the mortification to come in when they will be allowed no credit for doing so?—The warmest friends and the best supporters the Constitution has, do not contend that it is free from imperfections—but

they found them unavoidable and are sensible, if evil is likely to arise there from, the remedy must come hereafter; for in the present moment, it is not to be obtained; and, as there is a Constitutional door open for it, I think the People (for it is with them to Judge) can as they will have the advantage of experience on their Side, decide with as much propriety on the alterations and amendments which are necessary [as] ourselves. I do not think we are more inspired, have more wisdom—or possess more virtue than those who will come after us.—

The power under the Constitution will always be in the People. It is entrusted for certain defined purposes, and for a certain limited period, to representatives of their own choosing; and whenever it is executed contrary to their Interest, or not agreeable to their wishes, their Servants can, and undoubtedly will be, recalled.—It is agreed on all hands that no government can be well administered without powers—yet the instant these are delegated, altho' those who are entrusted with the administration are no more than the creatures of the people, act as it were but for a day, and are amenable for every false step they take, they are, from the moment they receive it, set down as tyrants—their natures, one would conceive from this, immediately changed—and that they could have no other disposition but to oppress. Of these things in a government Constituted and guarded as *ours* is, I have no idea—and do firmly believe that whilst many *ostensible* reasons are assigned to prevent the adoption of it, the real ones are concealed behind the Curtains, because they are not of a nature to appear in open day.—I believe further, supposing them pure, that as great evils result from too great Jealousy as from the want of it. We need look I think no further for proof of this, than to the Constitution, of some if not all of these States.—No man is a warmer advocate for proper restraints and wholesome checks in every department of government than I am—but I have never yet been able to discover the propriety of placing it absolutely out of the power of men to render essential Services, because a possibility remains of their doing ill. . . .

1. FC, Washington Papers, DLC. Printed: Fitzpatrick, XXIX, 309–13. Bushrod Washington (1762–1829), George Washington's nephew, was an Alexandria, Va., lawyer who represented Westmoreland County in the state House of Delegates in 1787. He voted to ratify the Constitution in the state Convention in June 1788.

2. Washington refers to the 31 October resolutions of the Virginia legislature submitting the Constitution to a state ratifying convention.

251. Massachusetts Centinel, 10 November¹

Every circumstance conspires to prove this great truth, that the consequence of the people's rejecting the federal Constitution, will be Anarchy in the extreme. If then, only the *possibility* of a transfer of some of our franchises, will be the effect of adopting it—can the enlightened

citizens of America hesitate one moment what course to pursue?—Can they wish an introduction of that baneful progeny of hell, anarchy and misrule—

From whose swell'd eyes there runs a briny flood;
Whose crimson faces gleam with clotted blood;
Around whose heads serpentine elf-locks play;
Whose tatter'd raiments rotten skins betray—
And brandish'd flames their trembling hands obey?

A correspondent asks, are the gentlemen who have withheld their assent from the Federal Constitution, superiour to Washington or Franklin, either in abilities or patriotism—men whose names, born on the wings of fame, are known throughout the world—and whose merit is universally acknowledged—Indeed the good and the great of every nation have been lavish in their panegyricks on their characters—a French philosopher, speaking of our illustrious Fabius, enraptured bids us to “*Begin with the infant in the cradle: Let the first word he lisps be WASHINGTON!*”² While the names of the dissenters scarce are heard without the limits of the respective States they belong to.—LET US THINK ON THIS.

1. The first paragraph was reprinted ten times by 24 December: N.H. (1), Conn. (1), N.Y. (3), N.J. (1), Pa. (3), Md. (1). The second paragraph was also reprinted ten times by 24 December: N.H. (1), Conn. (1), N.Y. (2), N.J. (2), Pa. (3), Md. (1). Except for the reprinting in the *New Hampshire Recorder*, 4 December, all of the reprints omitted the last two sentences of the second paragraph.

2. Quoted from a translation of the Comte de Mirabeau's *Reflections on the Observations on the Importance of the American Revolution . . .* (Philadelphia, 1786), 3. Mirabeau's passage was also an epigram on the title page of Noah Webster's *An American Selection of Lessons in Reading and Speaking* (Philadelphia, 1787).

252. Publius: The Federalist 5 New York Independent Journal, 10 November

This essay was written by John Jay. The draft is in the John Jay Collection, Rare Book and Manuscript Library, Columbia University. (See notes 2–4 below.) A contemporary Virginian believed the essay to have been written by James Madison (Arthur Campbell to [Thomas?] Madison, 20 February 1788, Draper Manuscripts, Virginia Papers, WHI).

The essay was reprinted in the December issue of the Philadelphia *American Museum* and in nine newspapers by 29 December: Mass. (1), N.Y. (5), Pa. (2), Va. (1). The first paragraph was reprinted in the *New Haven Gazette*, 15 November; the first four paragraphs were also reprinted in the Winchester *Virginia Gazette*, 14 December. For an attack on and defense of *The Federalist* 5, see “An Observer,” *New York Journal*, 19 November, and “Detector,” *New York Daily Advertiser*, 24 November.

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

The FØEDERALIST. No. V.

To the People of the State of New-York.

Queen Ann, in her letter of the 1st July 1706 to the Scotch Parliament, makes some observations on the importance of the *Union* then forming between England and Scotland, which merit our attention. I shall present the Public with one or two extracts from it. "An entire and perfect Union will be the solid foundation of lasting peace: It will secure your religion, liberty, and property, remove the animosities amongst yourselves, and the jealousies and differences betwixt our two kingdoms. It must encrease your strength, riches, and trade: and by this Union the whole Island, being joined in affection and free from all apprehensions of different interest, will be *enabled to resist all its enemies.*" "We most earnestly recommend to you calmness and unanimity in this great and weighty affair, that the Union may be brought to a happy conclusion, being the only *effectual* way to secure our present and future happiness; and disappoint the designs of our and your enemies, who will doubtless, on this occasion, *use their utmost endeavours to prevent or delay this Union.*"¹

It was remarked in the preceding Paper, that weakness and divisions at home, would invite dangers from abroad, and that nothing would tend more to secure us from them than Union, strength, and good Government within ourselves. This subject is copious and cannot easily be exhausted.

The history of Great Britain is the one with which we are in general the best acquainted, and it gives us many useful lessons. We may profit by their experience, without paying the price which it cost them. Altho' it seems obvious to common sense, that the people of such an island, should be but one nation, yet we find that they were for ages divided into three, and that those three were almost constantly embroiled in quarrels and wars with one another. Notwithstanding their true interest, with respect to the continental nations was really the same, yet by the arts and policy and practices of those nations, their mutual jealousies were perpetually kept enflamed, and for a long series of years they were far more inconvenient and troublesome, than they were useful and assisting to each other.

Should the People of America divide themselves into three or four nations, would not the same thing happen? would not similar jealousies arise; and be in like manner cherished? Instead of their being "joined in affection, and free from all apprehension of different interests" envy and jealousy would soon extinguish confidence and affection, and the partial interests of each confederacy, instead of the general interests of

all America, would be the only objects of their policy and pursuits. Hence like most other *bordering* nations, they would always be either involved in disputes and war, or live in the constant apprehension of them.

The most sanguine advocates for three or four confederacies, cannot reasonably suppose that they would long remain exactly on an equal footing in point of strength, even if it was possible to form them so at first—but admitting that to be practicable, yet what human contrivance can secure the continuance of such equality. Independent of those local circumstances which tend to beget and encrease power in one part, and to impede its progress in another, we must advert to the effects of that superior policy and good management which would probably distinguish the Government of one above the rest, and by which their relative equality and in strength and consideration, would be destroyed. For it cannot be presumed that the same degree of sound policy, prudence, and foresight, would uniformly be observed by each of these confederacies, for a long succession of years.

Whenever, and from whatever causes, it might happen; and happen it would, that any one of these nations or confederacies should rise on the scale of political importance much above the degree of their neighbours, that moment would those neighbours behold her with envy and with fear: Both those passions would lead them to countenance, if not to promote, whatever might promise to diminish her importance; and would also restrain them from measures calculated to advance, or even to secure her prosperity. Much time would not be necessary to enable her to discern these unfriendly dispositions—She would soon begin, not only to lose confidence in her neighbours, but also to feel a disposition equally unfavorable to them: Distrust naturally creates distrust, and by nothing is good will and kind conduct more speedily changed, than by invidious jealousies and uncandid imputations, whether expressed or implied.

The North is generally the region of strength, and many local circumstances render it probable, that the most Northern of the proposed Confederacies would, at a period not very distant, be unquestionably more formidable than any of the others. No sooner would this become evident, than the *Northern Hive* would excite the same Ideas and sensations in the more Southern parts of America, which it formerly did in the Southern parts of Europe: Nor does it appear to be a rash conjecture, that its young swarms might often be tempted to gather honey in the more blooming fields and milder air of their luxurious and more delicate neighbours.

They who well consider the history of similar divisions and confederacies, will find abundant reason to apprehend, that those in contemplation would in no other sense be neighbours, than as they would be borderers; that they would neither love nor trust one another, but on the contrary would be a prey to discord, jealousy and mutual injuries; in short that they would place us exactly in the situations which some nations doubtless wish to see us, viz. *formidable only to each other*.²

From these considerations it appears that those Gentlemen are greatly mistaken, who suppose that alliances offensive and defensive might be formed between these confederacies, and would produce that combination and union of wills, of arms, and of resources, which would be necessary to put and keep them in a formidable state of defence against foreign enemies.

When did the independent states into which Britain and Spain were formerly divided, combine in such alliances, or unite their forces against a foreign enemy? The proposed confederacies will be *distinct nations*. Each of them would have its commerce with foreigners to regulate by distinct treaties; and as their productions and commodities are different, and proper for different markets, so would those treaties be essentially different. Different commercial concerns must create different interests, and of course different degrees of political attachment to, and connection with different foreign nations. Hence it might and probably would happen, that the foreign nation with whom the *Southern* confederacy might be at war, would be the one, with whom the *Northern* confederacy would be the most desirous of preserving peace and friendship. An alliance so contrary to their immediate interest would not therefore be easy to form, nor if formed, would it be observed and fulfilled with perfect good faith.

Nay it is far more probable that in America, as in Europe, neighbouring nations, acting under the impulse of opposite interest, and unfriendly passions, would frequently be found taking different sides.³ Considering our distance from Europe, it would be more natural for these confederacies to apprehend danger from one another, than from distant nations, and therefore that each of them should be more desirous to guard against the others, by the aid of foreign alliances, than to guard against foreign dangers by alliances between themselves.⁴ And here let us not forget how much more easy it is to receive foreign fleets into our ports, and foreign armies into our country, than it is to persuade or compel them to depart—How many conquests did the Romans and others make in the characters of allies, and what innovations did they under the same character introduce into the Governments of those whom they pretended to protect.

Let candid men judge then whether the division of America into any given number of independent sovereignties would tend to secure us against the hostilities and improper interference of foreign nations.

1. Queen Anne's letter is in Daniel Defoe's *The History of the Union of Great Britain* (Edinburgh, 1709), "Of the Carrying on of the Treaty in Scotland," 6-7.

2. The following passage appears in Jay's draft but was not published in the newspapers or in the M'Lean edition: "one confœderacy urged by apprehensions of Dangers would provide little military Establishment—the others to be equally well prepared would do the like—by Degrees they would be augmented—and standing armies wd. after a while become as common here as they are in Germany and for the same Reasons and Purposes—Like them too they would oftener be turned against each other than against a foreign Enemy; for when did a foreign army carry fire & Sword into Germany without being guided and assisted by the Counsels and arms of one or more of its States."

3. The following sentence was crossed out in Jay's draft and did not appear in the newspapers or in the M'Lean edition: "Wicked men of great Talents & ambition are the growth of every Soil, and seldom hesitate to precipitate their Country into any Wars and Connections wh. may promote their Designs."

4. At this point, Jay began a paragraph but crossed it out. It did not appear in the newspapers or in the M'Lean edition. It reads: "Let candid Men therefore determine whether the People of america are not right in their opinion that that the Preservation of there Peace and Society agt. foreign Force does not consist in their being firmly united under one well balanced federal Government."

253. Boston Gazette, 12 November¹

A correspondent observes—Among the objections that have been raised against the proposed Federal Constitution, one is, that existing treaties with foreign powers, will be so far affected by it, that advantages may be taken by those powers, in as much as the organization of *that confederation* with which they contracted will be dissolved. But it may be observed in answer—that the FIRM of the Union will be the same that it formerly was; and that the alteration will be altogether in favour of the contracting parties,—on the part of the United States, in the powers to fulfil and defend, the stipulations being greatly enlarged; and with respect to foreign states, their security and dependence are encreased, in proportion to the efficiency of the National Government. In addition to all this, all Treaties now formed are ratified, and made the supreme law of the land, by the New Constitution.

It may be clearly discerned from the general complexion of the New Constitution, that the Convention who framed it, were influenced by the purest republican principles, and appear to have been solicitous to render it as popular as was consistent with the existence of government.

It was reserved for us, in the annals of fate, to open an ASYLUM for the oppressed in every quarter of the Globe; but it remains to complete the noble work, by establishing a government which shall *secure* the blessings of liberty to ourselves, our posterity, and the emigrant, from tyr-

anny who may fly to these hospitable shores.—Heaven, to all its other favours, now presents the golden opportunity—"A greater gift not God himself can give."

A form of government for these UNITED STATES, less energetick than that now proposed, would, in all probability, be totally deficient in its most essential requisites; for the boundary line between an *efficient system* and one that would be more popular, though extremely narrow, would be a state of weakness and indecision, or perpetual fluctuation; and to exceed *that line* by relaxing to a more democratical form, would preclude us from the visible effects of any *continental regulations* as at present and expose the UNION to a dissolution, or what is worse, anarchy and confusion.

1. Reprinted in full in the *Pennsylvania Packet* on 27 November and in two installments in the *Pennsylvania Journal* on 24 and 28 November. The first two paragraphs were reprinted in the *Trenton Mercury*, 4 December; the second and third paragraphs were reprinted in the *Connecticut Gazette*, 16 November, and the Middletown, Conn., *Middlesex Gazette*, 19 November.

254. A Landholder II

Connecticut Courant, 12 November¹

To the Holder and Tillers of Land.

GENTLEMEN, You were told in the late war that peace and independence would reward your toil, and that riches would accompany the establishment of your liberties, by opening a wider market, and consequently raising the price of such commodities as America produces for exportation.

Such a conclusion appeared just and natural. We had been restrained by the British to trade only with themselves, who often re-exported to other nations at a high advance, the raw materials they had procured from us. This advance we designed to realize, but our expectation has been disappointed. The produce of the country is in general down to the old price, and bids fair to fall much lower. It is time for those who till the earth in the sweat of their brow to enquire the cause. And we shall find it neither in the merchant or farmer, but in a bad system of policy and government, or rather in having no system at all. When we call ourselves an independant nation it is false, we are neither a nation, nor are we independant. Like thirteen contentious neighbours we devour and take every advantage of each other, and are without that system of policy which gives safety and strength, and constitutes a national structure. Once we were dependant only on Great-Britain, now we are dependant on every petty state in the world and on every custom house officer of foreign ports. If the injured apply for redress to the assemblies

of the several states, it is in vain, for they are not, and cannot be known abroad. If they apply to Congress, it is also vain, for however wise and good that body may be, they have not power to vindicate either themselves or their subjects.

Do not my countrymen fall into a passion on hearing these truths, nor think your treatment unexampled. From the beginning it hath been the case that people without policy will find enough to take advantage of their weakness, and you are not the first who have been devoured by their wiser neighbours, but perhaps it is not too late for a remedy, we ought at least to make a tryal, and if we still die shall have this consolation in our last hours, that we tried to live.

I can foresee that several classes of men will try to alarm your fears, and however selfish their motives, we may expect that *liberty, the encroachments of power, and the inestimable privileges of dear posterity* will with them be fruitful topicks of argument. As holy scripture is used in the exorcisms of Romish priests to expel imaginary dæmons; so the most sacred words will be conjured together to oppose evils which have no existence in the new constitution, and which no man dare attempt to carry into execution, among a people of so free a spirit as the Americans. The first to oppose a federal government will be the old friends of Great Britain, who in their hearts cursed the prosperity of your arms, and have ever since delighted in the perplexity of your councils. Many of these men are still among us, and for several years their hopes of a reunion with Britain have been high. They rightly judge that nothing will so soon effect their wishes as the deranged state we are now in, if it should continue. They see that the merchant is weary of a government which cannot protect his property, and that the farmer finding no benefit from the revolution, begins to dread much evil; and they hope the people will soon supplicate the protection of their old masters. We may therefore expect that all the policy of these men will center in defeating those measures, which will protect the people, and give system and force to American Councils. I was lately in a circle where the new constitution was discussed. All but one man approved, he was full of trembling for the liberties of poor America. It was strange! It was wonderous strange to see his concern! After several of his arguments had been refuted by an ingenious farmer in the company, but says he, it is against the treaty of peace, we received independence from Great Britain on condition of our keeping the old constitution. Here the man came out! We had beat the British with a bad frame of government, and with a good one he feared we should eat them up. Debtors in desperate circumstances, who have not resolution to be either honest or industrious, will be the next men to take the alarm. They have long been upheld by

the property of their creditors and the mercy of the public, and daily destroy a thousand honest men who are unsuspecting. *Paper money and tender acts*, is the only atmosphere in which they can breathe and live. This is now so generally known that by being a friend to such measures a man effectually advertises himself a bankrupt. The opposition of these we expect, but for the sake of all honest and industrious debtors, we most earnestly wish the proposed constitution may pass, for whatever gives a new spring to business will extricate them from their difficulties.

There is another kind of people will be found in the opposition. Men of much self-importance and supposed skill in politics, who are not of sufficient consequence to obtain public employment, but can spread jealousies in the little districts of country where they are placed. These are always jealous of men in place and of public measures, and aim at making themselves consequential by distrusting every one in the higher offices of society.

It is a strange madness of some persons, immediately to distrust those who are raised by the free suffrages of the people, to sustain powers which are absolutely necessary for public safety. Why were they elevated but for a general reputation of wisdom and integrity; and why should they be distrusted, until by ignorance or some base action they have forfeited a right to our confidence.

To fear a general government on energetic principles least it should create tyrants, when without such a government all have an opportunity to become tyrants and avoid punishment; is fearing the possibility of one act of oppression, more than the real exercise of a thousand. But in the present case, men who have lucrative and influential state offices, if they act from principles of self-interest, will be tempted to oppose an alteration, which would doubtless be beneficial to the people. To sink from a controlment of finance, or any other great department of the state, thro' want of ability or opportunity to act a part in the federal system must be a terryfying consideration. (Believe not those who insinuate that this is a scheme of great men to grasp more power. The temptation is on the other side. Those in great offices never wish to hazard their places by such a change. This is the scheme of the people and those high and worthy characters who in obedience to the public voice offer the proposed amendment of our federal constitution thus esteemed it; or they would not have determined state Conventions as the tribunal of ultimate decision. This is the last opportunity you may have to adopt a government which gives all protection to personal liberty, and at the same time promises fair to afford you all the advantages of a sovereign empire. While you deliberate with coolness, be not duped by the artful

surmises of such as from their own interest or prejudice are blind to the public good.)²

1. This essay, with slight variations, was also printed on 12 November in the *Hartford American Mercury*. It was reprinted in the *Norwich Packet*, 22 November; the *Connecticut Gazette*, 23 November; and the Northampton *Hampshire Gazette*, 5 December. See also note 2 below. For the authorship and circulation of "Landholder," see CC:230.

2. The text within angle brackets was printed in the *New Haven Gazette* on 22 November and reprinted in seven other newspapers by 2 February 1788: N.H. (2), Mass. (2), N.Y. (1), Md. (1), Va. (1).

255. Samuel Powel to George Washington Philadelphia, 13 November (excerpt)¹

. . . Our good Friends Messrs: Robert & Gouverneur Morris left this City Yesterday & will probably be with you before the Arrival of this Letter.² They will be able to give you a full and ample Detail of all Matters relative to our grand Question, I mean the Acceptation of the fœderal Constitution. For this Reason I shall say no more upon this Subject than just to observe that there appears to be no Cause to doubt of its Reception in Pennsylvania, -All the eastern States, New York, New Jersey and Delaware are esteemed to be decided for it, In Maryland there is a secret Opposition from a Member of the Assembly; but it is believed that his Politics will not succeed.³ I have not heard a Doubt relative to the States to the Southward of Virginia, & even there I hope & believe there is Virtue & good Sense enough to overbalance the Arts of interested, designing &, I had almost said, dishonest Men.-

It is said that R. H. Lee escaped the resentment of the People at Chester by his short Stay there, which he employed in fixing up & distributing printed Papers against the proposed Constitution. At Wilmington he harangued the Populace and cautioned them against hastily adopting it, assuring them that a powerfull Opposition was forming against it in Philadelphia and, in Confirmation of his Assertions distributed many of his inflammatory Papers.⁴-On such Conduct there can be but one Comment made . . .

1. RC, Washington Papers, DLC. Samuel Powel (1738-1793), who had recently visited Washington at Mount Vernon, had been Philadelphia's last prewar mayor in 1775 and would be its first mayor after it received a new charter in 1789.

2. The Morrises arrived at Washington's home on 19 November and stayed until the 21st. They remained in Virginia for at least seven months and were in Richmond while the Virginia Convention was in session. Some Pennsylvania Antifederalists alleged that the trip was designed to help Virginia Federalists (see RCS:Pa., 289; Mfm:Pa. 481).

3. Apparently Samuel Chase who had been elected to the House of Delegates from Baltimore in October.

4. For another version of Richard Henry Lee's alleged activities in Wilmington, Del., see the *Pennsylvania Gazette*, 21 November (CC:280). On 11-12 November, Lee had visited Washington at Mount Vernon.

**256. James White to Governor Richard Caswell of North Carolina
New York, 13 November (excerpt)¹**

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

1. RC, Gratz Collection, Old Congress, PHi. Printed: LMCC, VIII, 681-82. Caswell endorsed the letter as received on 26 November and as answered on 30 November. White represented North Carolina in Congress and was Superintendent of Indian Affairs for the Southern Department.

2. White refers to North Carolina's delegates to Congress and to the Constitutional Convention. For the report of the Convention delegates, see CC:78.

**257. Publius: The Federalist 6
New York Independent Journal, 14 November**

This essay—written by Alexander Hamilton—was reprinted in the New York *Daily Advertiser*, 15 November; *New York Packet*, 16 November; *Pennsylvania Gazette*, 5 December; *Lansingburgh Northern Centinel*, 18 December; *Albany Gazette*, 20 December; *Hudson Weekly Gazette*, 20 December; and *Norfolk and Portsmouth Journal*,

9 January 1788. It was also reprinted in the December issue of the Philadelphia *American Museum*.

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

The FEDERALIST. No. VI.

To the People of the State of New-York.

The three last numbers of this Paper have been dedicated to an enumeration of the dangers to which we should be exposed, in a state of disunion, from the arms and arts of foreign nations. I shall now proceed to delineate dangers of a different, and, perhaps, still more alarming kind, those which will in all probability flow from dissensions between the States themselves, and from domestic factions and convulsions. These have been already in some instances slightly anticipated; but they deserve a more particular and more full investigation.

A man must be far gone in Utopian speculations who can seriously doubt, that if these States should either be wholly disunited, or only united in partial confederacies, the subdivisions into which they might be thrown would have frequent and violent contests with each other. To presume a want of motives for such contests, as an argument against their existence, would be to forget that men are ambitious, vindictive and rapacious. To look for a continuation of harmony between a number of independent unconnected sovereignties, situated in the same neighbourhood, would be to disregard the uniform course of human events, and to set at defiance the accumulated experience of ages.

The causes of hostility among nations are innumerable. There are some which have a general and almost constant operation upon the collective bodies of society: Of this description are the love of power or the desire of preeminence and dominion—the jealousy of power, or the desire of equality and safety. There are others which have a more circumscribed, though an equally operative influence, within their spheres: Such are the rivalships and competitions of commerce between commercial nations. And there are others, not less numerous than either of the former, which take their origin intirely in private passions; in the attachments, enmities, interests, hopes and fears of leading individuals in the communities of which they are members. Men of this class, whether the favourites of a king or of a people, have in too many instances abused the confidence they possessed; and assuming the pretext of some public motive, have not scrupled to sacrifice the national tranquility to personal advantage, or personal gratification.

The celebrated Pericles, in compliance with the resentments of a prostitute,^(a) at the expence of much of the blood and treasure of his countrymen, attacked, vanquished and destroyed, the city of the *Sami-ans*. The same man, stimulated by private pique against the *Megaren-*

sians,^(b) another nation of Greece, or to avoid a prosecution with which he was threatened as an accomplice in a supposed theft of the statuary *Phidias*,^(c) or to get rid of the accusations prepared to be brought against him for dissipating the funds of the State in the purchase of popularity,^(d) or from a combination of all these causes, was the primitive author of that famous and fatal war, distinguished in the Grecian annals by the name of the *Pelopponesian* war; which, after various vicissitudes, intermissions and renewals, terminated in the ruin of the Athenian commonwealth.

The ambitious Cardinal¹ who was Prime Minister to Henry VIIIth. permitting his vanity to aspire to the Tripple-Crown,^(e) entertained hopes of succeeding in the acquisition of that splendid prize by the influence of the Emperor Charles Vth. To secure the favour and interest of this enterprising and powerful Monarch, he precipitated England into a war with France, contrary to the plainest dictates of Policy, and at the hazard of the safety and independence, as well of the Kingdom over which he presided by his councils, as of Europe in general—For if there ever was a Sovereign who bid fair to realise the project of universal monarchy it was the Emperor Charles Vth. of whose intrigues Wolsey was at once the instrument and the dupe.

The influence which the bigotry of one female,^(f) the petulancies of another,^(g) and the cabals of a third,^(h) had in the cotemporary policy, ferments and pacifications of a considerable part of Europe are topics that have been too often descanted upon not to be generally known.

To multiply examples of the agency of personal considerations in the production of great national events, either foreign or domestic, according to their direction would be an unnecessary waste of time. Those who have but a superficial acquaintance with the sources from which they are to be drawn will themselves recollect a variety of instances; and those who have a tolerable knowledge of human nature will not stand in need of such lights, to form their opinion either of the reality or extent of that agency. Perhaps however a reference, tending to illustrate the general principle, may with propriety be made to a case which has lately happened among ourselves. If SHAYS had not been a *desperate debtor* it is much to be doubted whether Massachusetts would have been plunged into a civil war.²

But notwithstanding the concurring testimony of experience, in this particular, there are still to be found visionary, or designing men, who stand ready to advocate the paradox of perpetual peace between the States, though dismembered and alienated from each other. The genius of republics (say they) is pacific; the spirit of commerce has a tendency to soften the manners of men and to extinguish those inflammable

humours which have so often kindled into wars. Commercial republics, like ours, will never be disposed to waste themselves in ruinous contentions with each other. They will be governed by mutual interest, and will cultivate a spirit of mutual amity and concord.

Is it not (we may ask these projectors in politics) the true interest of all nations to cultivate the same benevolent and philosophic spirit? If this be their true interest, have they in fact pursued it? Has it not, on the contrary, invariably been found, that momentary passions and immediate interests have a more active and imperious controul over human conduct than general or remote considerations of policy, utility or justice? Have republics in practice been less addicted to war than monarchies? Are not the former administered by *men* as well as the latter? Are there not aversions, predilections, rivalships and desires of unjust acquisitions that affect nations as well as kings? Are not popular assemblies frequently subject to the impulses of rage, resentment, jealousy, avarice, and of other irregular and violent propensities? Is it not well known that their determinations are often governed by a few individuals, in whom they place confidence, and are of course liable to be tainted by the passions and views of those individuals? Has commerce hitherto done any thing more than change the objects of war? Is not the love of wealth as domineering and enterprising a passion as that of power or glory? Have there not been as many wars founded upon commercial motives, since that has become the prevailing system of nations, as were before occasioned by the cupidity of territory or dominion? Has not the spirit of commerce in many instances administered new incentives to the appetite both for the one and for the other?—Let experience the least fallible guide of human opinions be appealed to for an answer to these inquiries.

Sparta, Athens, Rome and Carthage were all Republics; two of them, Athens and Carthage, of the commercial kind. Yet were they as often engaged in wars, offensive and defensive, as the neighbouring Monarchies of the same times. Sparta was little better than a well regulated camp; and Rome was never sated of carnage and conquest.

Carthage, though a commercial Republic, was the aggressor in the very war that ended in her destruction. Hannibal had carried her arms into the heart of Italy and to the gates of Rome, before Scipio, in turn, gave him an overthrow in the territories of Carthage and made a conquest of the Commonwealth.

Venice in latter times figured more than once in wars of ambition; 'till becoming an object of terror to the other Italian States, Pope Julius the Second found means to accomplish that formidable league,⁽ⁱ⁾ which gave a deadly blow to the power and pride of this haughty Republic.

The Provinces of Holland, 'till they were overwhelmed in debts and taxes, took a leading and conspicuous part in the wars of Europe. They had furious contests with England for the dominion of the sea; and were among the most persevering and most implacable of the opponents of Lewis XIV.

In the government of Britain the representatives of the people compose one branch of the national legislature. Commerce has been for ages the predominant pursuit of that country. Few nations, nevertheless have been more frequently engaged in war; and the wars, in which that kingdom has been engaged, have in numerous instances proceeded from the people.

There have been, if I may so express it, almost as many popular as royal wars. The cries of the nation and the importunities of their representatives have, upon various occasions, dragged their monarchs into war, or continued them in it contrary to their inclinations, and, sometimes, contrary to the real interests of the State. In that memorable struggle for superiority, between the rival Houses of *Austria* and *Bourbon* which so long kept Europe in a flame, it is well known that the antipathies of the English against the French, seconding the ambition, or rather the avarice of a favourite leader,⁽ⁱ⁾ protracted the war beyond the limits marked out by sound policy and for a considerable time in opposition to the views of the Court.

The wars of these two last mentioned nations have in a great measure grown out of commercial considerations—The desire of supplanting and the fear of being supplanted either in particular branches of traffic or in the general advantages of trade and navigation.³

From this summary of what has taken place in other countries, whose situations have borne the nearest resemblance to our own, what reason can we have to confide in those reveries, which would seduce us into an expectation of peace and cordiality between the members of the present confederacy, in a state of separation? Have we not already seen enough of the fallacy and extravagance of those idle theories which have amused us with promises of an exemption from the imperfections, weaknesses and evils incident to society in every shape? Is it not time to awake from the decei[t]ful dream of a golden age, and to adopt as a practical maxim for the direction of our political conduct, that we, as well as the other inhabitants of the globe, are yet remote from the happy empire of perfect wisdom and perfect virtue?

Let the point of extreme depression to which our national dignity and credit have sunk—let the inconveniences felt every where from a lax and

ill administration of government—let the revolt of a part of the State of North-Carolina⁴—the late menacing disturbances in Pennsylvania⁵ and the actual insurrections and rebellions in Massachusetts⁶ declare —!

So far is the general sense of mankind from corresponding with the tenets of those, who endeavour to lull asleep our apprehensions of discord and hostility between the States, in the event of disunion, that it has from long observation of the progress of society become a sort of axiom in politics, that vicinity, or nearness of situation, constitutes nations natural enemies. An intelligent writer expresses himself on this subject to this effect—“NEIGHBOURING NATIONS (says he) are naturally ENEMIES of each other, unless their common weakness forces them to league in a CONFEDERATE REPUBLIC, and their constitution prevents the differences that neighbourhood occasions, extinguishing that secret jealousy, which disposes all States to aggrandise themselves at the expence of their neighbours.”^(k) This passage, at the same time points out the EVIL and suggests the REMEDY.

- (a) ASPASIA, vide PLUTARCH’S life of Pericles.⁷
- (b) — — Idem.
- (c) — — Idem. Phidias was supposed to have stolen some public gold with the connivance of Pericles for the embellishment of the statue of Minerva.
- (d) — — Idem.
- (e) Worn by the Popes.
- (f) Madame De Maintenon.
- (g) Dutchess of Marlborough.
- (h) Madame De Pompadoure.
- (i) THE LEAGUE OF CAMBRAY, comprehending the Emperor, the King of France, the King of Arragon, and most of the Italian Princes and States.
- (j) The Duke of Marlborough.
- (k) Vide Principes des Negotiations par L’Abbe de Mably.⁸

1. Thomas Wolsey (c. 1475–1530).

2. This sentence elicited a comment in the New York *Daily Advertiser*, 14 December: “A distant correspondent observes, that the author of the *Federalist*, No. 6, need not have gone even so far as Massachusetts for a *reference tending to illustrate* the principle he had been asserting, viz. that the ENMITY, *interest, hopes and fears of leading individuals, in the communities of which they are members, tend to disturb the peace and tranquility of a nation.*

“If we had had no *Shays* among ourselves, that is, *desperate debtors, &c. &c.* it is not to be supposed that our code of laws since the revolution would have been so *disgraceful*, as they are said to be in a former No. [7, CC:269] of the *Federalist*—and as the laws of a country, especially of Republics, are supposed to be characteristic of the people, what an

insult is this on the community at large? And every abuse of that kind must *tend* to disturb the peace and tranquility of a country as much as one or two riots, and indeed are most frequently the occasion of such riots.—The remedying this evil (and no small one it is) will be among the happy effects expected from the adoption of the proposed Constitution.”

3. The M'Lean edition of *The Federalist*, published in March 1788, added the following at this point: “and sometimes even the more culpable desire of sharing in the commerce of other nations, without their consent.

“The last war but two between Britain and Spain sprang from the attempts of the English merchants, to prosecute an illicit trade with the Spanish main. These unjustifiable practices on their part produced severities on the part of the Spaniards, towards the subjects of Great Britain, which were not more justifiable; because they exceeded the bounds of a just retaliation, and were chargeable with inhumanity and cruelty. Many of the English who were taken on the Spanish coasts were sent to dig in the mines of Potosi; and by the usual progress of a spirit of resentment, the innocent were after a while confounded with the guilty in indiscriminate punishment. The complaints of the merchants kindled a violent flame throughout the nation, which soon after broke out in the house of commons, and was communicated from that body to the ministry. Letters of reprisal were granted and a war ensued, which in its consequences overthrew all the alliances that but twenty years before had been formed, with sanguine expectations of the most beneficial fruits.”

4. The State of Franklin was created in 1785 out of the western counties of North Carolina. The state collapsed in 1788 because of internal dissensions and the opposition of North Carolina, Congress, and Virginia.

5. A reference to the Wyoming Valley conflict in Pennsylvania (see CC:94).

6. Shays's Rebellion.

7. John Dryden and Arthur Hugh Clough, trans., *Plutarch, The Lives of the Noble Grecians and Romans* (New York, [1932]), 200–4. Plutarch wrote these biographical sketches during the reign of Trajan (98–117). They were first published in Florence in 1517.

8. *Principes des Négociations, pour Servir D'Introduction au Droit Public de L'Europe, Fondé sur les Traités* in *Œuvres Complètes de L'Abbé de Mably* (19 vols., Toulouse and Nismes, 1793), VII, 86–87. The *Principes* was first published in 1757.

258. Pennsylvania Gazette, 14 November¹

An Anecdote of the author of the CENTINELS, and other antifederal pieces.—This old man was called upon by a tradesman a few months ago for a debt under 30l. which had been due above twelve years, and which had not been demanded, from a tenderness to the old man's circumstances. As soon as our antifederal author saw the account, he said, “I will not pay this bill. The time for paying it has expired by the statute of limitation, and I will not set so *bad an example* as to pay a debt under such circumstances.” Quere—Whose opinion or advice should we now follow, respecting the new fœderal government—this dishonest old Scribler's—or the great and good General WASHINGTON's?

1. Reprints by 10 December (9): Vt. (1), N.H. (1), Mass. (1), R.I. (1), Conn. (2), N.Y. (1), S.C. (2). Most of the reprints set the first clause, or a part of it, as a heading. The heading in the reprint published in the *Albany Gazette*, 6 December, is “Anecdote of the author of the patriotic Centinel.”

**259. A Receipt for an Antifederalist Essay
Pennsylvania Gazette, 14 November**

This item is one of the first examples of a receipt (i.e., recipe), which was a popular literary technique used in eighteenth-century newspapers. The piece was reprinted six times by 6 December: N.H. (1), Mass. (2), Conn. (1), N.Y. (1), S.C. (1). It was also reprinted in the July 1788 issue of the *Philadelphia American Museum*.

A RECEIPT for an ANTIFEDERAL ESSAY.

WELL-BORN, nine times—*Aristocracy*, eighteen times—*Liberty of the Press*, thirteen times repeated—*Liberty of Conscience*, once—*Negro slavery*, once mentioned—*Trial by jury*, seven times—*Great Men*, six times repeated—Mr. WILSON,¹ forty times—and lastly, GEORGE MASON'S *Right Hand in a Cutting-box*,² nineteen times—put them altogether, and dish them up at pleasure. These *words* will bear boiling, roasting, or frying—and, what is remarkable of them, they will bear being served, after being once used, a dozen times to the same table and palate.

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

2. For Mason's statement "that he would sooner chop off his right hand than put it to the Constitution as it now stands," see CC:204, note 1.

260. Virginia Independent Chronicle, 14 November¹

Extract of a letter from a gentleman in New-York to his friend on the present Assembly, dated October 26, 1787.

"I suppose you, my dear friend, at this moment in deep divan with your conferees, at Richmond, deciding on the new constitution. If you and I differ in this, I must give up all politics in future, and content myself with contemplating, with philosophic phlegm, the effects of so speedy a departure from those principles for which we risked our lives and fortunes against Great-Britain. I have not only no objection to, but am extremely desirous of, a strong and general government, provided the fundamental principles of liberty be well secured. These I take to be, trial by jury as has been and is practised—the check of impeachment—the distinct organization and operation of the three great powers of government, the legislative, judicial, and executive. In all these great points the proposed constitution requires amendment, before it can be adopted even with safety.

"In the constitution of the foederal court, where its jurisdiction is original, the securing jury trial in criminal, is, according to all legal reasoning, an exclusion of it in civil matters—and in its appellant function it is expressly said the court shall judge both of *law* and *fact*. This of course renders the finding of a jury below, totally nugatory.

“The right of impeachment is speciously secured to the representative of the people. But who are the court to try it? The Senate, who are the advisers in all executive acts of civil government, which are of any importance. This House then are to try the executive officers either for obeying or disobeying their determination, and in both cases must be at once parties and judges. Could any device be more effectual to render this great and salutary prerogative of the people specious in appearance, but nugatory in operation.

“To vest judicial, legislative, and executive powers in the same body, is admitted by all constitutional writers as parental of aristocratic tyranny, or single despotism. It is besides an evident absurdity, because the powers are incongruous. These functions are so distinct in their nature, that they require different talents to discharge them—they are so arduous, that they demand the constant attention of the most able to execute them well—they are so incompatible, that even Kings and despots find it necessary to give the execution of them to different bodies. How then can we admit a constitution, which accumulates in one body so great a proportion of the legislative authority, so vast an influence in the executive department, and the transcendent power of judging in all impeachments?

“These are great defects—the smaller ones,

*Quos aut encuria fudit,
Aut humana parum cavit naturæ.*

I do not trouble you with; nor with the hazard our particular state runs of being made the subject of a ruinous monopoly in the commercial or carrying states. I perceive that in almost all things the eastern states outwit and outhinges us.² There is at least some danger, that under the proposed constitution their interests would be always paramount to ours.

“There is a most strange desire to give foreigners the advantage in legal pursuits over our fellow citizens. Where this Donquixotism in politics finds its equal I do not know. It has I am sure no foundation in practice; for can there be justice in allowing a foreigner, who resides at the foederal court, to drag a citizen with whom he has any money transaction, from Georgia to the foederal court to answer the foreigners suit? Is there a nation in the world in which an American has such a superiority over the natives? Is it not always held, that the utmost a foreigner can expect, is to be upon a par with the natives? what foreigner will disire to become a citizen, when by so doing he will lose that extraordinary pre-eminence? One would think it was calculated to make our

country swarm with foreigners, instead of emigrants—and invite them to prey upon the American natives, who must either yield to every demand of a foreigner, or be utterly ruined in the litigation.

“The junction of the New-England States with Pennsylvania will lay Maryland, Virginia, and South Carolina under contribution at pleasure under the proposed constitution. They have lately given us a foretaste of this combination in late appointments in that country, which they owe to the bounty of Virginia, and in which, in return they will not suffer one Virginian to have a place of honor, influence, or profit.³

“A delegate from one of the Eastern states declared that the country was to be peopled by New-Englanders, and they only had a right to all the posts. Suppose after they have augmented their marine by exorbitant profits on the monopoly of our freight, they should say as they only could protect the American shores they only should regulate every thing belonging to them. The reasoning might be as bad as what they apply to the western country; but the same combination would form a majority that would give it effect. The pride of Virginia will rise at this supposition, and will say, we shall always be strong enough to assert our own right, have men and materials for ship-building as well as they, and therefore we have no occasion to fear this. Alas, my good friend, pride is a bad reasoner, and the fat indolence of our countrymen, is illy calculated for a persevering combat with the hungry enterprise of the — and the insatiable rapacity of the —. Looking forward then a little to the probable consequences of admitting the intended constitution, we cannot but perceive that we are forging fetters for Virginia, and reducing her to receive laws from — and — by a superior naval power in our front, and a powerful people in our rear, consisting chiefly of New-Englanders and Pennsylvanians, and governed by them entirely.”

1. This piece, without the last two paragraphs, was reprinted in the *Antifederalist Philadelphia Freeman's Journal* on 28 November. The *Journal's* version was reprinted in the *New York Journal*, 3 December; *Baltimore Maryland Gazette*, 7 December; and *Salem Mercury*, 11 December.

2. All of the reprints used the word “unhinge.” The *Massachusetts Centinel*, 12 December, commented on this portion of the letter: “The northern antifederalists pretend that in the new Constitution, the southern states have pre-eminence. Let us hear what a southern one says on this head. After mentioning the ‘complement’ of great objections, he says, ‘the smaller ones I do not trouble you with, nor with the hazard, our particular state (Virginia) runs of being made the subject of a ruinous monopoly, in the commercial or carrying states—I perceive that in almost all things the eastern states out-wit and unhinge us.’—Thus we see how easy it is to find sticks to make a fire, on which to sacrifice an innocent creature.” The *Centinel* item was reprinted five times by 3 January 1788: R.I. (1), Conn. (1), N.Y. (2), Pa. (1).

3. A reference to the governmental organization of the Northwest Territory, which Virginia had ceded to Congress. On 5 and 16 October 1787 Congress had appointed three New Englanders and two Pennsylvanians to the places "of honor, influence, or profit" (JCC, XXXIII, 610, 686).

261. A Countryman I New Haven Gazette, 15 November

Between 15 November and 20 December, five essays by "A Countryman" were published in the *New Haven Gazette*. None of the essays was reprinted in Connecticut. The *New York Journal* reprinted the first four essays, while no other newspaper reprinted more than one. The first essay, which was unsigned, was reprinted in the *New York Journal* on 30 November. According to Simeon Baldwin, a New Haven lawyer, the author of the "Countryman" series was his father-in-law, Roger Sherman (Ford, *Essays*, 213).

To the PEOPLE of CONNECTICUT.

You are now called on to make important alterations in your government, by ratifying the new federal constitution.

There are, undoubtedly, such advantages to be expected from this measure, as will be sufficient inducement to adopt the proposal, provided it can be done without sacrificing more important advantages, which we now do or may possess. By a wise provision in the constitution of man, whenever a proposal is made to change any present habit or practice, he much more minutely considers what he is to *lose* by the alterations, what effect it is to have on what he at present possesses, than what is to be *hoped* for in the proposed expedient.

Thus people are justly cautious how they exchange present advantages for the hope of others in a system not yet experienced.

Hence all large states have dreaded a division into smaller parts, as being nearly the same thing as ruin; and all smaller states have predicted endless embarrassment from every attempt to unite them into larger. It is no more than probable that if any corner of this State of ten miles square, was now, and long had been independent of the residue of the State, that they would consider a proposal to unite them to the other parts of the State, as a violent attempt to wrest from them the only security for their persons or property. They would lament how little security they should derive from sending one or two members to the legislature at Hartford & New Haven, and all the evils that the Scots predicted from the proposed union with England, in the beginning of the present century, would be thundered with all the vehemence of American politics, from the little ten miles district. But surely no man believes that the inhabitants of this district would be less secure when united to the residue of the State, than when independent. Does any person suppose that the people would be more safe, more happy, or

more respectable, if every town in this State was independent, and had no State government?

Is it not certain that government would be weak and irregular, and that the people would be poor and contemptible? And still it must be allowed, that each town would entirely surrender its boasted independence if they should unite in State government, and would retain only about one eightieth part of the administration of their own affairs.

Has it ever been found, that people's property or persons were less regarded and less protected in large states than in small?

Have not the Legislature in large states been as careful not to overburden the people with taxes as in small? But still it must be admitted, that a single town in a small state, holds a greater proportion of the authority than in a large.

If the United States were one single government; provided the constitution of this extensive government was as good, as the constitution of this State now is, would this part of it be really in greater danger of oppression or tyranny, than at present? It is true that many people who are *great men* because they go to Hartford to make laws for us once or twice in a year, would then be no greater than their neighbours, as much fewer representatives would be chosen. But would not the people be as safe, governed by their representatives, assembled in New-York or Philadelphia, as by their representatives assembled in Hartford or New-Haven. Many instances can be quoted, where people have been unsafe, poor and contemptible, because they were governed only in small bodies; but can any instance be found where they were less safe for uniting? Has not every instance proved somewhat similar to the so much dreaded union between England and Scotland, where the Scots, instead of becoming a poor, despicable, dependent people, have become much more secure, happy, and respectable? If then, the constitution is a good one, why should we be afraid of Uniting, even if the Union was to be much more compleat and entire than is proposed?

262. William Symmes, Jr. to Peter Osgood, Jr. Andover, 15 November¹

This document is one of the most detailed and systematic analyses of the Constitution by an Antifederalist to appear in a personal letter. William Symmes, Jr. (1760-1807) was a Harvard graduate (1780) who studied law with Theophilus Parsons of Newburyport. In 1783 he opened the first law office in Andover, Mass., in a room annexed to Peter Osgood's house. Symmes served as justice of the peace for Andover from 1788 to 1791. Peter Osgood, Jr. (1745-1801), a merchant, represented Andover in the Massachusetts House of Representatives from 1787 to 1792 and was a justice of the peace from 1792 until his death.

On 3 December 1787 Symmes, Osgood, and Thomas Kittredge were elected to represent Andover in the Massachusetts Convention. Symmes was considered by a Federalist as one of only a few Antifederalist delegates of ability (Christopher Gore to Rufus King, 23 December, King Papers, NHi). On 22 January 1788, two weeks after the Convention assembled, Symmes made his first speech, in which he dwelt almost exclusively on the dangers of Congress' tax power. If, however, he could be convinced through "the force of reason" that the Constitution was worthy of support, Symmes said he would not "dishonour" his constituents by refusing to alter his opinion. According to Symmes, his "constituents ardently wish for a firm, efficient, continental government, but fear the operation of this which is now proposed. Let them be convinced that their fears are groundless, and I venture to declare, in their name, that no town in the Commonwealth, will sooner approve the form, or be better subjects under it" (Boston *Independent Chronicle*, 7 February).

On 31 January Andover held a special town meeting at which the freemen voted 124 to 115 against adopting the Constitution "as it now stands." The freemen, however, unanimously refused to instruct their delegates on this matter.

On the day Andover met, John Hancock, President of the Convention, proposed that Massachusetts ratify the Constitution with a list of recommendatory amendments. The amendments, coupled with Federalists' explanations of various provisions of the Constitution, convinced Symmes to abandon his Andover colleagues and vote for ratification. On 6 February he addressed the Convention a second time: "Upon the whole Mr. President, approving the amendments, and firmly believing that they will be adopted, I recall my former opposition, such as it was, to this Constitution, and shall, especially as the amendments are to be a *standing* instruction to our delegates until they are obtained, give it my unreserved assent.

"In so doing, I stand acquitted to my own conscience, I hope and trust I shall to my constituents, and (*laying his hand on his breast*) I know I shall before my God" (*Massachusetts Gazette*, 11 March).

According to my promise I sit down to sketch out my reasons for objecting against ye. Federal Constitution. The essay will doubtless be imperfect; but I design it for your perusal only, & I can safely rely upon your goodness for all necessary allowances. -

I will consider ye. objectionable passages in course as they occur in ye. System, as well for your convenience as my own.

1.-The apportionment of taxes.

It appears to me that this will operate unequally against ye. northern States. Let us suppose that two fifths of ye. slaves in ye. five southern states amount at least to 150,000 persons. What reason can be given why, if taxes must be proportioned by population only, this should be rejected?-That ye. profits of their labour are nothing? I deny ye. fact; for I believe that every negro that cultivates ye. valuable staples, Tobacco, Wheat, Rice, Indigo, &c raises a greater profit to his master than any white can raise from his labour here.-What then?-That ye. southern Nabobs squander it all in Luxuries, & so ye. States there are

made if anything, poorer?—Very good—The Convention then have patronized Luxury, & taxed Industry & Oeconomy. [But?] three fifths include all ye. working slaves. Neither will this answer; for ye. northern States are taxed as much for an infant or a decrepid old man, as for a vigorous youth.

How then shall we be taxed? I say not in proportion to actual wealth at present, but in proportion to a State's advantages for acquiring wealth. The soil & climate of Virginia are better than those of this State—The staples of Virginia are in high demand—Its Rivers ye. finest in ye. world. How rich might Virginia be!—But Virginia is not rich—What then?—Shall a man need no better excuse from taxes than Idleness? He will hardly pay his *private* debts so easily.—

Taxes must certainly grow out of ye. ground. What then is more evident than that ye. best land & ye. best produce (supposing ye. advantages of Commerce to be equal) should pay or (if you please, produce) ye. most?—And are not our long winters in which we consume ye. labours of ye. summer, to be considered? No—But yes, I beg pardon—they *are* considered—We pay ye. more.—

But 2.—The Senate.—

To what great purpose is it that we have an equal representation in ye. House, if we are represented by States in ye. Senate. This is a great grievance in ye. present Congress. That little Delaware should weigh as much in all political debates as this State, is, in a government merely popular, quite ridiculous.—Whose voice are we supposed to hear in all public transactions?—We *accurate* Republicans say, the voice of ye. people. Who are ye. people? We answer, ye. majority.—But a majority of *States* may chuse a President &c This is a close adherence to principles.—“Two Senators from each State, & each Senator to have a vote.” The present Congress *mended & made worse*, for now *seven* States ~~with ye. Vice president's turning vote~~ are competent when before it required ye. sanction of nine. But we shall have a proper House—All will be right there. True!—& that may be a good reason why we should not have a proper Senate—But I cannot see ye. force of it. Why any State should have more weight in one body than in ye. other, let ye. Convention say. And yet poor R. Island was not there to speak for herself.—

I may speak of ye. duration of offices in another place.—

3.—Congress may *make & alter* ye. times *places* & MANNER of holding elections, except ye. *place* of chusing senators.—

This is a very champaign exception indeed—The Legislatures may sit where they please—It means this if it means anything—And we are doubtless much obliged to ye. Convention for this decent privelege.—But

I presume ye. *time* of chusing senators must be in ye. winter, for it will be too hot for a session at ye. southward in ye. summer. And ye. *place* of choosing Representatives may possibly be ye. county-town, or some place yet more remote. This would be very convenient.—But ye. word MANNER! Oh it is an excellent word. It would not have been half so well to have tied ye. hands of this future Congress by saying all elections shall be made *by ballot*, or as ye. several States shall please. No—The States are to be made sensible how much this Congress is above them in all wisdom—even to ye. knowledge of a particular acre of ground. Nay, ye. Convention itself seems dazzled at ye. prospect of this wisdom—for they dared not prescribe it any rules. Now that ye. future Congress may be as wise as this Convention I have no great reason to doubt from anything that is past—But they will certainly have a great deal more power; & we shall shortly hear no more of *recommendations*. That they shd. make use of their power to enlarge ye. priveleges of ye. people let anybody expect that [will?].—Well then! If they do not enlarge them why make provision for *altering* them. That they may take them away? Oh no Never suspect such a thing.—What then shall we think of it? That ye. Convention were fools? Hardly—I see no other way but to recur to ye. great Wisdom of this future Congress—It will be a wise Congress—a *very* wise Congress—Here now is a way to get rid of every doubt.—But why need ye. Convention to care how ye. members are chosen, if they are but sent?—Oh, Sir—it will be a very wise Congress.—And about ye. place, if they are but chosen?—Oh Sir—a very wise Congress!—Just as good an answer as that of ye. Clown in *All's well that ends well*, which was to everything Oh Lord, Sir!

4. The Houses to keep a journal & publish ye. same, excepting such parts as may *in their judgment* require secrecy.

Good again. A very wise Congress! The idea used to be, except private articles in foreign treaties, secret expeditions, &c—But this Constitution excels in ye. Laconic mode of speech. Or rather, perhaps ye. Convention were lazy & could not conveniently go about to particularize either ye. rights of ye. people, or ye. just prerogatives of Congress. Who can complain after this that he knows nothing of public affairs, except ye. expenditure of public monies? If Congress conceal, ye. Convention say it is best ye. people should not know—& indeed, if Congress are invested with all power, general knowledge might be inconvenient, as it could only produce discontents, & these might issue in rebellions.—

When ye. dark pages of these journals shall be inspected by some young politician of future ages, who perchance may succeed his father in ye. national council—What lessons may he not learn!—There may he observe by what steps ye. form of a Govt. is imperceptibly changed—There by what process ye. genius of a free people is altered—But I say no more.—

5. Congress shall have power, &c 1st. clause.—

To *lay*—pretty well, when you read *what & for what*—but—and to *collect—what?*—taxes, duties, imposts, & excises—very well! for *what ends?*—to pay ye. debts, & provide for ye. common defence & *general welfare* of ye. United States.—

A more general dedition or surrender of all ye. property in ye. United States to Congress could not perhaps have been framed. Gentlemen it is all—all yours to spend as you please, provided we may but know how you spend it—& even then you may sink as many thousands as you please under ye. heads of incidental charges, secret services, &c. Take it all.

I will paraphrase the whole of this passage in a short address from ye. States to Congress.—

Gentlemen, Having chosen you to govern us, and believing that thro' all ages you will be a disinterested body, & will always spend money, if you can get it, with rigid œconomy, we give you full power to tax us—And lest we should some of us prove refractory in ye. matter of payment from some mistaken notions that you demand it too fast, we also give you full power to collect ye. taxes you lay in ye. way most agreeable to yourselves, & we will pay all your collectors, deputies, & so forth, as you shall direct. And as you have power to contract debts for us to pay, you shall have all ye. money you want to pay them—And you shall have all you want to build forts, magazines, & arsenals; buy arms & ammunition; make war & peace, & so forth—And in short, whatever you shall think will be in any degree for our good you shall have money to do, & we will never trouble you with any enquiries into ye. motives of your conduct, always relying on your wisdom with ye. most implicit confidence, & submitting our estates entirely to your disposal.

A very handsome donation! And when compared with ye. clause that throws all imposts & excises into ye. Continental treasury, produces a Query—How each state shall support its own Government?—By a dry tax, & one perhaps which cannot be collected, because ye. Federal Collectors must have ye. preference. So that we must expect to be sick of State Government as an expensive useless thing—& then Congress will

help us to a Federal Intendant, perhaps, to save us the trouble of governing ourselves.—But this may be more than my text will justify.—

6.—To raise & support armies, &c,—

That ye. Federal Head should have power to raise an army for some purposes is perhaps quite necessary—Whether it is so or not, ye. present Congress have such power. But here appears to be a fault by no means singular in this constitution, viz, ye. want of limitation. All is left to ye. discretion of Congress, & there is no bar against a standing army in time of peace. For tho' no appropriation of money to this use may be for a longer term than two years, yet this is long enough, when ye. same appropriation may be continued for two years to ye. end of time. And we are to expect that this Congress will soon have such a system of policy as will bind their successors, either by ye. force of its obvious expediency, or by ye. danger of innovation, to persist in ye. same plan.—

7. To exercise exclusive legislation, &c—

I do not see so much of ye. terrible in this as some do, especially if ye. rest is granted. Congress will be secure from *little* mobs, & so it ought to be. It will be delivered from ye. persecution of ye. state in which it resides, & so it ought to be. It may build accommodations for a court which will be, as they ought to be, ye. property of ye. United States. And that a body so *powerful*, ought to be handsomely lodged, I believe every foreigner will imagine.—But how this clause came into ye. constitution I know not—for I believe any state might grant what is here demanded of ye. whole, to Congress, or any body corporate with ye. consent of Congress.—

8. No state shall emit bills of credit, or make tender-laws.—

Here I suppose ye. principal weight of opposition will hang. The point itself is of consequence, but it will receive more from ye. *prejudices* of men, & our *present embarrassed situation*. You know my sentiments are directly opposed to paper money, as they would be in almost every case in which we could *want* it.—But ye. query is whether every state shall be in a worse situation than any individual, who, if he has not ye. cash in hand, may give his promissory note. I think it ought not to be, unless ye. United States will promise to lend us money whenever we want it. But I should agree to this, that no bills of credit shall ever be a tender. This regulation would be not only just, but conformable to my notions of sound policy.—

As to other tender-laws, they are, in fact, but poor expedients—but they *are* expedients, & such as a State may possibly need. It is really better to have some kind of tender-law than to be thrown into confusion. And a State is so much a better judge of its own circumstances, that I

had rather see this regulation in ye. State, than in ye. Federal Constitution. Yet, unless it were in all, some states might impose upon others, & so justice would not be equally, & universally done. I wish that ye. abolition of these abuses might be deferred till we are in a more prosperous situation-& had rather that Congress should even have power to say hereafter when they shall cease, than that they should cease immediately upon ye. adoption of any new System.-

I omit ye. next sentence, because I don't at present understand what effect it will have on ye. private debt of each particular State.-

9. No State shall without ye. consent of Congress enter into any agreement or compact with any other State.-

If I understand this, it is a curious passage. What! may we not even *agree* together-If there be a suit in ye. Federal Court between two States, may they not, like private parties, *agree*. Or in an hundred other cases of no Federal concern, may they not treat, & settle their disputes! I must have mistaken these wise men. It cannot be so. To accuse ye. Convention of folly would be gross-I dare say that most of them had rather be accused of design.-

10. The president may with ye. advice of two thirds of ye. senators present, make treaties-& with ye. consent of Senate Ambassadors, &c-

The Senate-Who are ye. Senate? Look back, & you will see that a majority is a Quorum. This is fourteen, & two thirds of fourteen are ~~eight~~ ten. The President & ten Senators may make treaties. And ye. President & senate, i.e. by ye. same rule, eight senators may appoint Ambassadors, Ministers, Consuls, Judges, & almost everybody else.-

Where, in God's name, did they get this?-From reason, or from history? I fear not from ye. former, & as to ye. latter, it has not come within my reading in any Constitution where a Republican form is *guarantied*. Are we then a Commonwealth, & shall we have no voice in treaties, but by our President or elective King? In four years' time (with good hope of another election) cannot he pack a sufficient Senate to enable him to gratify his favourites, or sell his country?-If this be not a servile adherence to ye. pattern of ye. King & Privy Council of Great Britain, I confess I know not what it is. Congress may declare war indeed, but ye. President may make peace upon what terms he shall think proper. Is a peace of less consequence to ye. nation than a war, or is it of more, that this power is given to one man? What is ye. privelege of declaring war, compared with ye. power of making *all kinds* of treaties? If he make a bad treaty, what then? Why he may be impeached, if anybody dares impeach him, before ye. very Senate that advised ye. measure. And if convicted, what? He shall be removed from his office, & perhaps dis-

qualified to hold any other. And after this he may chance to lose his head by a trial at Law, if ye. Judges, whom he has appointed, will bid ye. Jury to convict him. And so, with a great deal of difficulty, for some (perhaps) irreparable detriment, we get ye. offender's head.-Is there no better way than this?-But I must not dwell longer.-

11. The President shall take care that ye. laws be faithfully executed.-

That there must be an executive power independent of ye. Legislative branch, appears to have been generally agreed by ye. fabricators of modern Constitutions. But I believe it has not till now been supposed essential that this power should be vested in a single person. The execution of ye. Laws requires as much prudence as any other department, & ye. pardoning or refusing to pardon offences is a very delicate matter. Yet he has no Council, no assistance, no restraint.-

But was ever a commission so *brief*, so *general*, as this of our President? Can we exactly say how far a faithful execution of ye. Laws may extend-or what may be called, or comprehended in, a faithful execution? If ye. President be guilty of a Misdemeanor, will he not *take care* to have this excuse; & should it turn against him, may he not plead a mistake? Or is he bound to understand ye. Laws & their operation?-Should a Federal act happen to be as generally expressed as ye. President's authority, must he not interpret ye. act? For in many cases he must execute laws independently of any judicial decision.-And should ye. Legislature direct ye. mode of executing ye. laws, or any particular law, is he obliged to comply, if he does not think it will amount to a *faithful* execution? For to suppose that ye. Legislature can make laws to affect ye. office of ye. President, is to destroy his independence, & in this case to supersede ye. very constitution.-Is there no instance in which he may reject ye. sense of ye. Legislature & establish his own? And so far would he not be to all intents & purposes absolute!

Doubtless it is a very good thing to have wholesome laws faithfully executed.-But where this power is given to a single person, it does not seem to me that either sufficient instructions, or a sufficient restraint, can be couched in two words.-

12. The Judicial power, &c-

"Shall extend to all cases between citizens of different States." This seems an hardship on account of ye. appeal, which will carry many men 600 miles, & cause them more expence than ye. matter in dispute may be worth. There is no reason why citizens of different states should not have as good a remedy against each other as citizens of ye. same State,

nor why a Debtor in ye. one case should pay more cost than a Debtor in ye. other. And supposing that to avoid cost ye. appeal in this case should be taken away (tho by this Constitution it cannot) yet this would be very unequal.—I think this part of ye. judicial power not only very grievous, but quite unnecessary; for disputes between inhabitants of different states have hitherto been very well determined in one of ye. states.—And now all remedy for small dues is taken away in effect—for tho' judgment be obtained in ye. Infr. Court, ye. Debtor by appealing may discourage ye. Creditor from any further pursuit.—

13. The Sup. Court shall have appellate jurisdiction *both as to law & fact*, except &c—

Except what?—Here they are at it again!—"With such exceptions, & under such regulations, as *Congress* shall make." A very wise Congress!—This Convention have really saved themselves a great deal of labour by this presumption.

I confess upon ye. principle that there cannot be a fair trial before Judges chosen by ye. State in which one of ye. parties resides, juries must also be excluded. But I deny the principle, as too great a refinement.—A Federal jury in ye. Sup. Court, but especially one from ye. vicinity would be a chimera, if ye. Court be stationary. But that ye. same men shou'd be Judges of Law & fact is against reason & not congenial to a free government. Congress may make as many *exceptions* as they please—But to talk of *regulating* men's judgment of facts would be to talk nonsense.—

14. The United States shall guaranty to every State a Republican form of Govt.—

Republics are either Aristocratical or Democratical; & the United States guaranty one of these forms to every State. But I disapprove of any guaranty in ye. matter. For though it is improbable that any State will choose to alter ye. form of its govt. yet it ought to be ye. privilege of every State to do as it will in this affair. If this regulation be admitted it will be found difficult to effect any important change in State-government. For then ye. other States will have nearly as much to do with our government as we ourselves. And what Congress may see in our present constitutions, or any future amendments, not strictly republican *in their opinions*, who can tell?—Besides, it is of no importance to any State how ye. govt. in any other is administered, whether by a single House, or by two & a King.—I therefore presume that as this clause meddles too much with ye. independence of ye. several States, so also it answers no valuable end to any, or to ye. whole—

With regard to ye. Constitution taken into one view-

It is a complete system of Federal Government, every part of which is full of energy; & if established, I think it can never fail of being obeyed by ye. people, and no combination can ever be sufficiently extensive or secret to subvert it. There is some ambiguity in several important parts of it, which arises principally from ye. too general terms in which it is expressed. Too much perhaps is left for ye. future Congress to supply, which when supplied will be no part of ye. Constitution. The States are strictly confined to their own business, & even these are not a little circumscribed. And the powers of all ye. Federal departments are very ample & adequate to their ends.-In short, ye. system would make us formidable abroad, & keep us very *peaceable* at home; & with some amendments might do very well for us, if we could be contented to become citizens of America, confuse ye. thirteen stripes, & change ye. stars into one glorious Sun.-

let us pause-

It is not in a few light strictures-It is not, perhaps, in ye. most acute & methodical essay-that ye. merits of this unexpected-this wonderful system can be strictly defined. Reading cannot be applied, & experience is out of ye. question. Thus much we may easily perceive-it is a great, almost a total, & probably a final change. With regard to every state, "To be or not to be-that is ye. question." So great a revolution was never before proposed to a people for their consent. In a time of profound peace, that a matter of such infinite concern should be submitted to general debate throughout such an empire as this, is a phenomenon entirely new.-Let us make a due return to that providence by which we enjoy ye. privilege, by using it like a wise, prudent, & free people. Let us equally shun a hasty acceptance or a precipitate rejection of this all-important scheme. And if our final decision be ye. effect of true wisdom, let us never doubt but that ye. end will be happy!-

To close,-

You must easily see, Sir, that what I have written is but a light sweep on ye. surface of things. Many things *in* ye. Constitution worthy of remark I have entirely omitted, those I have mentioned I have but slightly criticized, & what is *not in* ye. Constitution that ought to be there, I have not attempted to say. I found you had prescribed me a task which few men perhaps can adequately perform & that I had not by any means qualified myself to do it.-But, if this trifling attention to your wishes should prove a gratification, I shall be satisfied in that respect.-

1. RC, Willis Papers, MeHi. The letter is signed "W. S.-"

263. The News-Mongers' Song for the Winter of 1788
Albany Gazette, 15 November¹

Good news, brother dealers in metre & prose!
The world has turn'd *buffer* and coming to blows;
Write *good sense* or *non sense*, my boys, it's all one,
All persons may fire when the battle's begun.

Down, down, down derry down.

Our tutors and sages would oftentimes say,
"Sit omnibus hora," each dog has his day:
Queen Ann's was the æra of genius 'tis known,
Arguendo this day is for scribblers alone.

Down, down &c.

Now *Claxton & Babcock* and *Webster* and *Stoddard*,
Hall, Sellers, Childs, Loudon, Oswald, Morton and *Goddard*
Russell, Haswell, Green, Thomas, Meigs, Powers and *Draper*.²
May thank the kind stars for such luck to their paper.

Down, down, &c.

Come on brother scribblers, 'tis idle to lag.
The CONVENTION has let the cat out of the bag,
Write something at random, you need not be nice,
Public spirit, Montesquieu, and great Dr. Price,

Down, down, &c.

Talk of *Holland & Greece*, and of *purses & swords*,
Democratical mobs and congressional Lords:
Tell what is surrendered and what is enjoy'd,
All things weigh alike, boys, we know, in a void.

Down, down, &c.

Much joy, brother printers! the day is our own,
A time like the present sure never was known:
Predictions are making—predictions fulfil,
All nature seems proud to bring grist to our mill.

Down, down, &c.

Huge Comets once more thro' the system will stroll,
The Moon, they inform us is burnt to a coal;
Old Saturn is tumbling—the Sun has a spot,
The world and its glory are going to pot.

Down, down, &c.

All *Europe*, we hear, is in horrible pother,
They jockey, they bully and kill one another:

In *Holland*, where freedom is lustily bawling,
 All's fighting and swearing, and pulling & ha[u]lling.
Down, down, &c.

The *Empress* and *Poland* fresh mischief are carving,
 The *Porte* is in motion, and *Ireland* is starving,
 While the *Dey of Algiers*, sirs, so haughty is grown,
 That he swears by the prophet, the WORLD'S all his own.
Down, down, &c.

In *England*, blest island! what wonders we view,
 NORTH³ blind as a bat, Lord GEORGE GORDON⁴ a *Jew*;
 Or halters or peerage on HASTINGS⁵ await,
 And faction *pro more*, dismembers the state.
Down down, &c.

PRINCE GEORGE⁶ has relinquish'd the *stews* for the *church*,
 And struts like a true-blue in Solomon's porch:
 Corruption pervades thro' both country and town,
 And the tune of the nation is *Down derry down*
Down, down &c.

We bid Europe farewell, the Atlantic is past,
 O free born COLUMBIA you're welcome at last!
 Hail *Congress, Conventions, Mobs, Shayites & Kings*,
 With *Bankrupts & Know ye's*,⁷ & all pretty things!
Down, down, &c.

The state's had a fall and received a contusion,
 And all things are tumbled in jumbled confusion:
 State quacks and state midwives are huddling all round,
 But in spite of their drugs we go *Down derry down*.
Down; down, &c.

Write then, brother scribblers, your talents display,
 This world is a *stage* and man's life is a play;
 When the curtain is drawn and the ranting is o'er,
 Kings, heroes and waiters are equal once more.
Down, down, &c.

Old Time, with his brass-eating teeth shall consume,
 The works of a *Homer*, a *Newton*, a *Hume*;
 And who, when all things are consumed by Old Time,
 Can tell but we scribblers were writers sublime?
Down, down, down derry down.

1. Reprints by 2 January 1788 (14): Vt. (1), N.H. (2), Mass. (4), R.I. (1), Conn. (2), N.Y. (2), Pa. (1), Md. (1). The poem was also reprinted in the December issue of the *Philadelphia American Museum*. For a parody of this item, see the *New York Daily Advertiser*, 11 December.

2. The names are those of newspaper printers from Vermont to Maryland.

3. A reference to Lord North (1732-1792), who started losing his sight in early 1787 and soon became totally blind.

4. In June 1780 Lord George Gordon (1751-1793) was a leader of the Protestant riots in London which were opposed to toleration for Roman Catholics. He had recently converted to Judaism.

5. Warren Hastings (1732-1818) had been governor general of India. He returned to England in 1785 and was eventually impeached by the House of Commons in 1787 for corruption and cruelty in office. He was acquitted by the House of Lords in 1795.

6. George Augustus Frederick, Prince of Wales (1762-1830).

7. "Know Ye's" referred to the Rhode Island law that allowed debtors, who had unsuccessfully tendered paper money to their creditors, to lodge the currency with a judge. If the creditor again rejected payment, the judge would advertise the lodgment in the state's newspapers introduced by the words "Know Ye." If the creditor remained adamant in his refusal to accept the depreciated paper money, the debt was cancelled and the lodgment, minus judge's and advertising fees, was forfeited to the state.

264. Brutus III

New York Journal, 15 November¹

To the CITIZENS of the STATE of NEW-YORK.

In the investigation of the constitution, under your consideration, great care should be taken, that you do not form your opinions respecting it, from unimportant provisions, or fallacious appearances.

On a careful examination, you will find, that many of its parts, of little moment, are well formed; in these it has a specious resemblance of a free government—but this is not sufficient to justify the adoption of it—the gilded pill, is often found to contain the most deadly poison.

You are not however to expect, a perfect form of government, any more than to meet with perfection in man; your views therefore, ought to be directed to the main pillars upon which a free government is to rest; if these are well placed, on a foundation that will support the superstructure, you should be satisfied, although the building may want a number of ornaments, which, if your particular tastes were gratified, you would have added to it: on the other hand, if the foundation is insecurely laid, and the main supports are wanting, or not properly fixed, however the fabric may be decorated and adorned, you ought to reject it.

Under these impressions, it has been my object to turn your attention to the principal defects in this system.

I have attempted to shew, that a consolidation of this extensive continent, under one government, for internal, as well as external purposes, which is evidently the tendency of this constitution, cannot succeed, without a sacrifice of your liberties; and therefore that the attempt is not only preposterous, but extremely dangerous; and I have shewn, independent of this, that the plan is radically defective in a fun-

damental principle, which ought to be found in every free government; to wit, a declaration of rights.

I shall now proceed to take a nearer view of this system, to examine its parts more minutely, and shew that the powers are not properly deposited, for the security of public liberty.

The first important object that presents itself in the organization of this government, is the legislature. This is to be composed of two branches; the first to be called the general assembly, and is to be chosen by the people of the respective states, in proportion to the number of their inhabitants, and is to consist of sixty five members, with powers in the legislature to encrease the number, not to exceed one for every thirty thousand inhabitants. The second branch is to be called the senate, and is to consist of twenty-six members, two of which are to be chosen by the legislatures of each of the states.

In the former of these there is an appearance of justice, in the appointment of its members—but if the clause, which provides for this branch, be stripped of its ambiguity, it will be found that there is really no equality of representation, even in this house.

The words are “representatives and direct taxes, shall be apportioned among the several states, which may be included in 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.”—What a strange and unnecessary accumulation of words are here used to conceal from the public eye, what might have been expressed in the following concise manner. Representatives are to be proportioned among the states respectively, according to the number of freemen and slaves inhabiting them, counting five slaves for three free men.

“In a free state,” says the celebrated Montesquieu, “every man, who is supposed to be a free agent, ought to be concerned in his own government, therefore the legislature should reside in the whole body of the people, or their representatives.”² But it has never been alledged that those who are not free agents, can, upon any rational principle, have any thing to do in government, either by themselves or others. If they have no share in government, why is the number of members in the assembly, to be increased on their account? Is it because in some of the states, a considerable part of the property of the inhabitants consists in a number of their fellow men, who are held in bondage, in defiance of every idea of benevolence, justice, and religion, and contrary to all the principles of liberty, which have been publickly avowed in the late glorious revolution? If this be a just ground for representation, the horses

in some of the states, and the oxen in others, ought to be represented—for a great share of property in some of them, consists in these animals; and they have as much controul over their own actions, as these poor unhappy creatures, who are intended to be described in the above recited clause, by the words, “all other persons.” By this mode of apportionment, the representatives of the different parts of the union, will be extremely unequal; in some of the southern states, the slaves are nearly equal in number to the free men; and for all these slaves, they will be entitled to a proportionate share in the legislature—this will give them an unreasonable weight in the government, which can derive no additional strength, protection, nor defence from the slaves, but the contrary. Why then should they be represented? What adds to the evil is, that these states are to be permitted to continue the inhuman traffic of importing slaves, until the year 1808—and for every cargo of these unhappy people, which unfeeling, unprincipled, barbarous, and avaricious wretches, may tear from their country, friends and tender connections, and bring into those states, they are to be rewarded by having an increase of members in the general assembly. There appears at the first view a manifest inconsistency, in the apportionment of representatives in the senate, upon the plan of a consolidated government. On every principle of equity, and propriety, representation in a government should be in exact proportion to the numbers, or the aids afforded by the persons represented. How unreasonable, and unjust then is it, that Delaware should have a representation in the senate, equal to Massachusetts, or Virginia? The latter of which contains ten times her numbers, and is to contribute to the aid of the general government in that proportion? This article of the constitution will appear the more objectionable, if it is considered, that the powers vested in this branch of the legislature are very extensive, and greatly surpass those lodged in the assembly, not only for general purposes, but, in many instances, for the internal police of the states. The other branch of the legislature, in which, if in either, a feint spark of democracy is to be found, should have been properly organized and established—but upon examination you will find, that this branch does not possess the qualities of a just representation, and that there is no kind of security, imperfect as it is, for its remaining in the hands of the people.

It has been observed, that the happiness of society is the end of government—that every free government is founded in compact; and that, because it is impracticable for the whole community to assemble, or when assembled, to deliberate with wisdom, and decide with dispatch, the mode of legislating by representation was devised.

The very term, representative, implies, that the person or body chosen for this purpose, should resemble those who appoint them—a representation of the people of America, if it be a true one, must be like the people. It ought to be so constituted, that a person, who is a stranger to the country, might be able to form a just idea of their character, by knowing that of their representatives. They are the sign—the people are the thing signified. It is absurd to speak of one thing being the representative of another, upon any other principle. The ground and reason of representation, in a free government, implies the same thing. Society instituted government to promote the happiness of the whole, and this is the great end always in view in the delegation of powers. It must then have been intended, that those who are placed instead of the people, should possess their sentiments and feelings, and be governed by their interests, or, in other words, should bear the strongest resemblance of those in whose room they are substituted. It is obvious, that for an assembly to be a true likeness of the people of any country, they must be considerably numerous.—One man, or a few men, cannot possibly represent the feelings, opinions, and characters of a great multitude. In this respect, the new constitution is radically defective.—The house of assembly, which is intended as a representation of the people of America, will not, nor cannot, in the nature of things, be a proper one—sixty-five men cannot be found in the United States, who hold the sentiments, possess the feelings, or are acquainted with the wants and interests of this vast country. This extensive continent is made up of a number of different classes of people; and to have a proper representation of them, each class ought to have an opportunity of choosing their best informed men for the purpose; but this cannot possibly be the case in so small a number. The state of New-York, on the present apportionment, will send six members to the assembly: I will venture to affirm, that number cannot be found in the state, who will bear a just resemblance to the several classes of people who compose it. In this assembly, the farmer, merchant, mechanic, and other various orders of people, ought to be represented according to their respective weight and numbers; and the representatives ought to be intimately acquainted with the wants, understand the interests of the several orders in the society, and feel a proper sense and becoming zeal to promote their prosperity. I cannot conceive that any six men in this state can be found properly qualified in these respects to discharge such important duties: but supposing it possible to find them, is there the least degree of probability that the choice of the people will fall upon such men? According to the common course of human affairs, the natural aristocracy of the country will be elected. Wealth always creates influence, and this is generally

much increased by large family connections: this class in society will for ever have a great number of dependents; besides, they will always favour each other—it is their interest to combine—they will therefore constantly unite their efforts to procure men of their own rank to be elected—they will concenter all their force in every part of the state into one point, and by acting together, will most generally carry their election. It is probable, that but few of the merchants, and those the most opulent and ambitious, will have a representation from their body—few of them are characters sufficiently conspicuous to attract the notice of the electors of the state in so limited a representation. The great body of the yeoman of the country cannot expect any of their order in this assembly—the station will be too elevated for them to aspire to—the distance between the people and their representatives, will be so very great, that there is no probability that a farmer, however respectable, will be chosen—the mechanics of every branch, must expect to be excluded from a seat in this Body—It will and must be esteemed a station too high and exalted to be filled by any but the first men in the state, in point of fortune; so that in reality there will be no part of the people represented, but the rich, even in that branch of the legislature, which is called the democratic.—The well born, and highest orders in life, as they term themselves, will be ignorant of the sentiments of the midling class of citizens, strangers to their ability, wants, and difficulties, and void of sympathy, and fellow feeling. This branch of the legislature will not only be an imperfect representation, but there will be no security in so small a body, against bribery, and corruption—It will consist at first, of sixty-five, and can never exceed one for every thirty thousand inhabitants; a majority of these, that is, thirty-three, are a quorum, and a majority of which, or seventeen, may pass any law—a majority of the senate, or fourteen, are a quorum, and eight of them pass any law—so that twenty-five men, will have the power to give away all the property of the citizens of these states—what security therefore can there be for the people, where their liberties and property are at the disposal of so few men? It will literally be a government in the hands of the few to oppress and plunder the many. You may conclude with a great degree of certainty, that it, like all others of a similar nature, will be managed by influence and corruption, and that the period is not far distant, when this will be the case, if it should be adopted; for even now there are some among us, whose characters stand high in the public estimation, and who have had a principal agency in framing this constitution, who do not scruple to say, that this is the only practicable mode of governing a people, who think with that degree of freedom which the Americans do—this government will have in their gift a vast number of offices of great honor and

emolument. The members of the legislature are not excluded from appointments; and twenty-five of them, as the case may be, being secured, any measure may be carried.

The rulers of this country must be composed of very different materials from those of any other, of which history gives us any account, if the majority of the legislature are not, before many years, entirely at the devotion of the executive—and these states will soon be under the absolute domination of one, or a few, with the fallacious appearance of being governed by men of their own election.

The more I reflect on this subject, the more firmly am I persuaded, that the representation is merely nominal—a mere burlesque; and that no security is provided against corruption and undue influence. No free people on earth, who have elected persons to legislate for them, ever reposed that confidence in so small a number. The British house of commons consists of five hundred and fifty-eight members; the number of inhabitants in Great-Britain, is computed at eight millions—this gives one member for a little more than fourteen thousand, which exceeds double the proportion this country can ever have: and yet we require a larger representation in proportion to our numbers, than Great-Britain, because this country is much more extensive, and differs more in its productions, interests, manners, and habits. The democratic branch of the legislatures of the several states in the union consists, I believe at present, of near two thousand; and this number was not thought too large for the security of liberty by the framers of our state constitutions: some of the states may have erred in this respect, but the difference between two thousand, and sixty-five, is so very great, that it will bear no comparison.

Other objections offer themselves against this part of the constitution—I shall reserve them for a future paper, when I shall shew, defective as this representation is, no security is provided, that even this shadow of the right, will remain with the people.

1. Reprinted: Philadelphia *Freeman's Journal*, 21 November; Philadelphia *Independent Gazetteer*, 23 November; Boston *Independent Chronicle*, 13 December. The *Gazetteer* reprint was prefaced: "The following is republished at the particular request of a number of our readers." For a response to "Brutus" III, see "Mark Antony," *Independent Chronicle*, 10 January 1788. For authorship of "Brutus," see CC:178.

2. *Spirit of Laws*, I, Book XI, chapter VI, 226.

265. Cincinnatus III: To James Wilson, Esquire New York Journal, 15 November¹

Sir, Your speech has varnished an iron trap, bated with some illustrious names, to catch the liberties of the people. And this you are pleased to call a constitution—"the best form of government that was

ever offered to the world." May Heaven then have mercy on the world and on us. And in this prayer, I am persuaded, you will join me when you come to consider temperately, the unbounded powers given to this best of all possible governments; and then recollect, from your reading, what horrible abuses have grown from too unlimited a confidence of the people in their rulers. It is always both easier and safer, to add to powers, which are found to be insufficient, than to recall those which are injuriously large. This is a maxim, which no people, who mean to be free, should ever forget. While the people have something to give, they will be respected by their rulers. When with Cappadocian baseness, they resign all at once, they will be deemed fit only to be hewers of wood and drawers of water.

In my former papers, I have shewn, that the freedom of the press is left at the mercy of the proposed government—that the sacred trial by jury, in civil cases, is at best doubtful; and in all cases of appeal expressly taken away. In equal insecurity, or rather equally at mercy, are we left as to—liberty of conscience. We find nothing that regards it, except the following;—"but no religious test shall ever be required as a qualification to any office or public trust under the United States." This exception implies, and necessarily implies, that in all other cases whatever liberty of conscience may be regulated. For, though no such power is expressly given, yet it is plainly meant to be included in the general powers, or else this exception would have been totally unnecessary—For why should it be said, that no religious test should be required as a qualification for office, if no power was given or intended to be given to impose a religious test of any kind? Upon the omission of the trial by jury in civil cases, you observe—"when this subject was in discussion, we were involved in difficulties which pressed on all sides, and no precedent could be discovered to direct our course. The cases open to trial by jury differed in the different states, it was therefore impracticable on that ground to have made a general rule."—So, because the extent of the trial by jury varied in the different states, therefore it was proper to abolish it in all. For what else can your words—"it was impracticable to have made a general rule" mean?—If ever the rule is made, it must be general. And if this is impracticable—it surely follows, that in the foederal court we must go without it in civil cases. What sense is there in supposing, that what, for the reasons you alledge, was impracticable with the Convention, will be practicable with the Congress? What faculty can the one body have more than the other, of reconciling contradictions? But the sophistry of this excuse consists in the word *made-make* you might not, but surely nothing hindered your *proposing* the general rule, which, if approved by the several state Conventions, would *make* the

rule. You have made nothing. You have only proposed. It rests with the several conventions, to make your propositions, rules. It is not possible to say, that the Convention could not have proposed, that there should be one similar general mode of trial by jury in the Fœderal court in all cases whatever. If the states would not have acceded to the proposition, we should only be where we are. And that this trial by jury is best, even in courts where the civil law process now prevails, I think no unbigoted man can doubt. Judge Blackstone is so explicit on this head, that I need only quote him to enforce conviction on every unprejudiced mind.—“This open examination of witnesses *viva voce*, in the presence of all mankind, is much more conducive to the clearing up of truth, than the private and secret examination taken down in writing before an officer, or his clerk, in the ecclesiastical courts, and all others that have borrowed their practice from the civil law; where a witness may frequently depose that in private which he will be ashamed to testify in a public and solemn tribunal. Where an artful or careless scribe may make a witness speak what he never meant, by dressing up his depositions in his own forms and language; but he is here at liberty to correct and explain his meaning, if misunderstood, which he can never do after a written deposition is once taken. Besides the occasional questions of the judge, the jury, and the counsel, propounded to the witnesses on a sudden, will sift out the truth much better than a formal set of interrogatories previously penned and settled; and the confronting of adverse witnesses is also another opportunity of obtaining a clear discovery, which can never be had on any other method of trial. Nor is the presence of the judge, during the examination, a matter of small importance; for besides the respect, &c. with which his presence will naturally inspire the witness, he is able by use and experience to keep the evidence from wandering from the point in issue. In short, by this method of examination, and this only, the persons who are to decide upon the evidence, have an opportunity of observing the quality, age, education, understanding, behaviour, and inclinations of the witness; in which points all persons must appear alike, when their depositions are reduced to writing and read to the judge, in the absence of those who made them; and yet as much may be frequently collected from the manner in which the evidence is delivered as from the matter of it. These are a few of the advantages attending this way of giving testimony *ore tenus*; which was also, indeed, familiar among the ancient Romans.”²

They who applaud the practice of civil law courts, must either have seen very little of such practice not to know that it is liable to infinite fraud, corruption, and oppression. As far as it prevails in the English system of jurisprudence, from which we derive ours, it is a remnant of

ecclesiastical tyranny. The free and pure part of the system, that is the common law courts, have ever cautiously guarded against its encroachments, and restrained its operation. All great judges have reprobated it, except Lord Mansfield. He indeed, has been as desirous of extending it in England, as he was of extending parliamentary power into America; and with the same view—to establish tyranny. This noble Lord's principles, if we may judge from the proposed constitution, has too many admirers in America.

But I shall be told, that almost all the nations in Europe have adopted the civil law. This is true; and it is equally true, that almost all European nations have adopted arbitrary power with the civil law. This ought to be a warning to us how we admit it, even as England has done. It would never have been admitted there, but from the ecclesiastical influence in the days of superstition. This, thank Heaven, is now no more; and I sincerely wish its offspring was also extinct.

I have been thus particular on the subject of civil law, to shew how little propriety there was in leaving it upon as respectable a foot, as the common law, in civil cases. In fact, the constitution leaves them both to shift for themselves, in original process, and in appeal seems to favor the former by placing both law and fact, in the arbitrament of the judges.

Upon standing armies, sir, your professional dexterity has not abandoned you. The Constitution proposes to give the power of raising and supporting armies—and this without any limitation as to number; and to appropriate money to that object for two years at a time. This you justify by saying, that you “do not know a nation in the world which has not found it necessary and useful to maintain the appearance of strength, in a season of profound tranquility:” your knowledge then, sir, has not extended to free nations. Your phraseology, it is true, is somewhat equivocal; but unless by the term, appearance of strength, we understand, a standing army, we must suppose you to have meant a disingenuous evasion. Your reading might have informed you, sir,—that the Grecian republics, while free, never kept up any standing army—that the Roman republic, while free, never kept up a standing army, but that with them, a standing army and tyranny were co-eval, and concomitant—that in the free Swiss Cantons, no standing army, was ever, or is now permitted; no, sir, in all these great and glorious republics, though surrounded with enemies, their military array was occasional, or at the utmost, annual; nor was there formerly, nor is there now, in the Swiss Cantons, any more appearance of strength kept up in time of peace, than their militia gives: and yet they are free and formidable.

You say a standing army has always been, “a topic of popular declamation.” Is it indeed nothing more, sir? Is that which all free nations

have studiously avoided, as the rock on which their liberties would suffer shipwreck; that which in fact, is the source and security of tyranny; that which all great political writers concur in condemning; that which has animated the ardor, and inflamed the eloquence of the first orators in the two houses of parliament, in Great-Britain—that which all the art and influence of the crown could never obtain from the people for more than a year—is all that, sir, nothing more than a topic of popular declamation? Is it surprising, that such knowledge, and such sentiments, as this declaration holds out, should have given us such a constitution? But the weightiest reason is, that without a standing army, “the government must declare war, before they are prepared to carry it on.” This is without question a most warlike paragraph: whether we are to invade Great-Britain, France, Spain, Portugal, or all together, under the new constitution, and with the standing army it has given, you have not been pleased to inform us. To do this, a navy too will be necessary, and I see no provision for that: however, I suppose that, as well as every thing else, is included in the power “to make all laws which shall be necessary and proper for carrying into execution the foregoing, and all other powers vested by this constitution, in the government of the United States, or in any department or officer thereof.” Let then the people rightly understand, that one blessing of the constitution will be, the taxing them to support fleets and armies to conquer other nations, against whom the ambition of their new rulers may declare war.

1. Reprinted: Philadelphia *Independent Gazetteer*, 21 November. For authorship of “Cincinnatus,” see CC:222, and for Wilson’s speech of 6 October, see CC:134.

2. Blackstone, *Commentaries*, Book III, chapter XXIII, 373–74.

266. Elbridge Gerry to John Wendell Cambridge, 16 November¹

On my Return to this place, I received your Favr of the 17th of Sepr & immediately sent the letter inclosed to Philadelphia.²

If the new Constitution should be adopted, I shall think it my duty to support it, but as it now stands I think it neither consistent with the principles of the Revolution, or of the Constitutions of the several States, & it is condemned by the best Writers on free Governments. indeed the eastern States will soon rebel against it, for it is not a Government adapted to their Genius, Habits, or aversion to arbitrary power, but if they are of a different opinion, I have no objection to their trying on the foederal Chains, for such I am persuaded they will find the bonds of this constitution eventually to be. this entrè nous—

1. RC, Autograph Collection of the Historical Society of Pennsylvania, PHI. Wendell (1731-1808) was a merchant in Portsmouth, N.H. For Gerry's objections to the Constitution, see CC:227. For Wendell's response to Gerry, see CC:348.

2. In his response, Wendell thanked Gerry for transmitting his letter to Samuel Coates, a Philadelphia merchant.

267. George Washington to Catherine Macaulay Graham Mount Vernon, 16 November (excerpts)¹

Your favor of the 10th. of Octr. 1786 came duly to hand, and should have had a much earlier acknowledgment, had not the business of the public (in which I have been, in a manner, compelled to engage again) engrossed the whole of my time for several months past; and my own private concerns required my unremitted attention, since my return home. . . .

You will undoubtedly, before you receive this, have an opportunity of seeing the plan of Government proposed by the Fœderal Convention for the United States. You will very readily conceive, Madam, the difficulties which the Convention had to struggle against.—The various & opposite interests which were to be conciliated.—The local prejudices which were to be subdued.—The diversity of opinions & sentiments which were to be reconciled.—And in fine, the sacrafices wch. were necessary to be made on all sides, for the general welfare, combined to make it a work of so intricate & difficult a nature, that I think it is much to be wondered at, that any thing could have been produced with such unanimity as the Constitution proposed.

It is now submitted to the consideration of the People, & waits their decision.—The legislatures of the several States which have been convened since the Constitution was offered, have readily agreed to the calling a Convention in their respective States—some by an unanimous vote, and others by a large majority, but whether it will be adopted by the People or not, remains yet to be determined.—

1. RC, Leicestershire Record Office, Leicester, England. Washington's letterbook copy, with differences in punctuation and capitalization, is printed in Fitzpatrick, XXIX, 316. Graham (1731-1791), an English historian, had visited Mount Vernon in 1785.

268. An American: The Crisis Massachusetts Centinel, 17 November¹

“These are the times that try men's souls”—and he who now espouses the cause of his country, will receive the thanks thereof and of posterity, and the applause of the world.

THE CRISIS.

E'en now, my Countrymen, before our eyes,
At our own option, FAME or RUIN lies.

Ye brave COLUMBIANS (if you *now* can claim,
 The glorious boon, to bear so great a name),
 Arouse! Let all that's dear to men inspire
 Those breasts which *once* display'd a gen'rous fire;
 Secure that Empire firm, for which you fought—
 Which many lives and free-spent treasure bought.
 Can you soon, in dark oblivion waste
 Such ard'ous toils, and ills so lately past?
 Will you your country into factions break—
 Bow down your necks—the yoke of bondage take?
 No! you reply—We'll join in Freedom's cause,
 To prop her strength, consolidate her laws,
 And firmly fix her government, to sway
 'Till time shall cease, and nature fade away.

1. This item was reprinted in the December issue of the *Philadelphia American Museum* and in ten newspapers by 22 January 1788: Mass. (3), R.I. (1), Conn. (1), N.Y. (2), N.J. (1), Pa. (1), Va. (1). The pseudonym appeared only in the *Museum*, Rhode Island, and New Jersey reprintings.

269. Publius: The Federalist 7
New York Independent Journal, 17 November

This essay was written by Alexander Hamilton. It was reprinted in the *New York Daily Advertiser*, 19 November; *New York Packet*, 20 November; *Pennsylvania Gazette*, 12 December; *Hudson Weekly Gazette*, 20, 27 December; and *Lansingburgh Northern Centinel*, 25 December. At the end of the essay the printer of the *Independent Journal* appended this note: "In order that the whole subject of these Papers may be as soon as possible laid before the Public, it is proposed to publish them four times a week, on Tuesday in the *New-York Packet* and on Thursday in the *Daily Advertiser*." The *New York Packet* reprinted this note on 20 November.

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

The FØEDERALIST. No. VII.

To the People of the State of New-York.

It is sometimes asked, with an air of seeming triumph, what inducements could the States have, if disunited, to make war upon each other? It would be a full answer to this question to say—precisely the same inducements, which have, at different times, deluged in blood all the nations in the world. But unfortunately for us, the question admits of a more particular answer. There are causes of difference within our immediate contemplation, of the tendency of which, even under the restraints of a Fœderal Constitution, we have had sufficient experience,

to enable us to form a judgment of what might be expected, if those restraints were removed.

Territorial disputes have at all times been found one of the most fertile sources of hostility among nations. Perhaps the greatest proportion of the wars that have desolated the earth have sprung from this origin. This cause would exist, among us, in full force. We have a vast tract of unsettled territory within the boundaries of the United States. There still are discordant and undecided claims between several of them; and the dissolution of the Union would lay a foundation for similar claims between them all. It is well known, that they have heretofore had serious and animated discussions concerning the right to the lands which were ungranted at the time of the revolution, and which usually went under the name of crown-lands. The States within the limits of whose colonial governments they were comprised have claimed them as their property; the others have contended that the rights of the crown in this article devolved upon the Union; especially as to all that part of the Western territory which either by actual possession or through the submission of the Indian proprietors was subjected to the jurisdiction of the King of Great Britain, till it was relinquished in the treaty of peace. This, it has been said, was at all events an acquisition to the confederacy by compact with a foreign power. It has been the prudent policy of Congress to appease this controversy, by prevailing upon the States to make cessions to the United States for the benefit of the whole. This has been so far accomplished, as under a continuation of the Union, to afford a decided prospect of an amicable termination of the dispute.¹ A dismemberment of the confederacy however would revive this dispute, and would create others on the same subject. At present, a large part of the vacant Western territory is by cession at least, if not by any anterior right, the common property of the Union. If that were at an end, the States which made the cession on a principle of Fœderal compromise, would be apt, when the motive of the grant had ceased, to reclaim the lands as a reversion. The other States would no doubt insist on a proportion, by right of representation. Their argument would be that a grant, once made, could not be revoked, and that the justice of their participating in territory acquired, or secured by the joint efforts of the confederacy remained undiminished—If contrary to probability it should be admitted by all the States, that each had a right to a share of this common stock, there would still be a difficulty to be surmounted, as to a proper rule of apportionment. Different principles would be set up by different States for this purpose; and as they would affect the opposite interests of the parties, they might not easily be susceptible of a pacific adjustment.

In the wide field of Western territory, therefore, we perceive an ample theatre for hostile pretensions, without any umpire or common judge to interpose between the contending parties. To reason from the past to the future we shall have good ground to apprehend, that the sword would sometimes be appealed to as the arbiter of their differences. The circumstances of the dispute between Connecticut and Pennsylvania, respecting the land at Wyoming admonish us, not to be sanguine in expecting an easy accommodation of such differences. The articles of confederation obliged the parties to submit the matter to the decision of a Federal Court. The submission was made, and the Court decided in favour of Pennsylvania—But Connecticut gave strong indications of dissatisfaction with that determination; nor did she appear to be intirely resigned to it, till by negotiation and management something like an equivalent was found for the loss she supposed herself to have sustained.² Nothing here said is intended to convey the slightest censure on the conduct of that State. She no doubt sincerely believed herself to have been injured by the decision; and States like individuals acquiesce with great reluctance in determinations to their disadvantage.

Those, who had an opportunity of seeing the inside of the transactions, which attended the progress of the controversy between this State and the district of Vermont, can vouch the opposition we experienced, as well from States not interested as from those which were interested in the claim; and can attest the danger, to which the peace of the Confederacy might have been exposed, had this State attempted to assert its rights by force. Two motives preponderated in that opposition—one a jealousy entertained of our future power—and the other, the interest of certain individuals of influence in the neighbouring States, who had obtained grants of lands under the actual government of that district. Even the States which brought forward claims, in contradiction to ours, seemed more solicitous to dismember this State than to establish their own pretensions. These were New-Hampshire, Massachusetts and Connecticut. New-Jersey and Rhode-Island upon all occasions discovered a warm zeal for the independence of Vermont; and Maryland, 'till alarmed by the appearance of a connection between Canada and that place, entered deeply into the same views. These being small States, saw with an unfriendly eye the perspective of our growing greatness.³ In a review of these transactions we may trace some of the causes, which would be likely to embroil the States with each other, if it should be their unpropitious destiny to become disunited.

The competitions of commerce would be another fruitful source of contention. The States less favourably circumstanced would be desirous of escaping from the disadvantages of local situation, and of sharing in

the advantages of their more fortunate neighbours. Each State, or separate confederacy, would pursue a system of commercial polity peculiar to itself. This would occasion distinctions, preferences and exclusions, which would beget discontent. The habits of intercourse, on the basis of equal privileges, to which we have been accustomed from the earliest settlement of the country, would give a keener edge to those causes of discontent, than they would naturally have, independent of this circumstance. *We should be ready to denominate injuries those things which were in reality the justifiable acts of independent sovereignties consulting a distinct interest.* The spirit of enterprise, which characterise the commercial part of America, has left no occasion of displaying itself unimproved. It is not at all probable that this unbridled spirit would pay much respect to those regulations of trade, by which particular States might endeavour to secure exclusive benefits to their own citizens. The infractions of these regulations on one side, the efforts to prevent and repel them on the other, would naturally lead to outrages, and these to reprisals and wars.

The opportunities, which some States would have of rendering others tributary to them, by commercial regulations, would be impatiently submitted to by the tributary States. The relative situation of New-York, Connecticut and New-Jersey, would afford an example of this kind. New-York, from the necessities of revenue, must lay duties on her importations. A great part of these duties must be paid by the inhabitants of the two other States in the capacity of consumers of what we import. New-York would neither be willing nor able to forego this advantage. Her citizens would not consent that a duty paid by them should be remitted in favour of the citizens of her neighbours; nor would it be practicable, if there were not this impediment in the way, to distinguish the customers in our own markets. Would Connecticut and New-Jersey long submit to be taxed by New-York for her exclusive benefit? Should we be long permitted to remain in the quiet and undisturbed enjoyment of a metropolis, from the possession of which we derived an advantage so odious to our neighbours, and, in their opinion, so oppressive? Should we be able to preserve it against the incumbent weight of Connecticut on the one side, and the co-operating pressure of New-Jersey on the other? These are questions that temerity alone will answer in the affirmative.

The public debt of the Union would be a further cause of collision between the separate States or confederacies. The apportionment, in the first instance, and the progressive extinguishment, afterwards, would be alike productive of ill humour and animosity. How would it be possible to agree upon a rule of apportionment satisfactory to all? There is scarcely any, that can be proposed, which is entirely free from real

objections. These, as usual, would be exaggerated by the adverse interests of the parties. There are even dissimilar views among the States, as to the general principle of discharging the public debt. Some of them, either less impressed with the importance of national credit, or because their citizens have little, if any, immediate interest in the question, feel an indifference, if not a repugnance to the payment of the domestic debt, at any rate. These would be inclined to magnify the difficulties of a distribution. Others of them, a numerous body of whose citizens are creditors to the public, beyond the proportion of the State in the total amount of the national debt, would be strenuous for some equitable and effectual provision. The procrastinations of the former would excite the resentments of the latter. The settlement of a rule would in the mean time be postponed, by real differences of opinion and affected delays. The citizens of the States interested, would clamour, foreign powers would urge, for the satisfaction of their just demands; and the peace of the States would be hazarded to the double contingency of external invasion and internal contention.

Suppose the difficulties of agreeing upon a rule surmounted, and the apportionment made. Still there is great room to suppose, that the rule agreed upon would, upon experiment, be found to bear harder upon some States than upon others. Those which were sufferers by it would naturally seek for a mitigation of the burthen. The others would as naturally be disinclined to a revision, which was likely to end in an increase of their own incumbrances. Their refusal would be too plausible a pretext to the complaining States to withhold their contributions, not to be embraced with avidity; and the non compliance of these States with their engagements would be a ground of bitter dissention and altercation. If even the rule adopted should in practice justify the equality of its principle, still delinquencies in payment, on the part of some of the States, would result from a diversity of other causes—the real deficiency of resources—the mismanagement of their finances, accidental disorders in the administration of the government—and in addition to the rest the reluctance with which men commonly part with money for purposes, that have outlived the exigencies which produced them, and interfere with the supply of immediate wants. Delinquencies from whatever causes would be productive of complaints, recriminations and quarrels. There is perhaps nothing more likely to disturb the tranquillity of nations, than their being bound to mutual contributions for any common object, which does not yield an equal and coincident benefit. For it is an observation as true, as it is trite, that there is nothing men differ so readily about as the payment of money.

Laws in violation of private contracts as they amount to aggressions on the rights of those States, whose citizens are injured by them, may be considered as another probable source of hostility. We are not authorised to expect, that a more liberal or more equitable spirit would preside over the legislations of the individual States hereafter, if unrestrained by any additional checks, than we have heretofore seen, in too many instances, disgracing their several codes. We have observed the disposition to retaliation excited in Connecticut, in consequence of the enormities perpetrated by the legislature of Rhode-Island;⁴ and we may reasonably infer, that in similar cases, under other circumstances a war not of *parchment* but of the sword would chastise such atrocious breaches of moral obligation and social justice.

The probability of incompatible alliances between the different States, or confederacies, and different foreign nations, and the effects of this situation upon the peace of the whole, have been sufficiently unfolded in some preceding papers. From the view they have exhibited, of this part of the subject, this conclusion is to be drawn, that America, if not connected at all, or only by the feeble tie of a simple league offensive and defensive, would by the operation of such opposite and jarring alliances be gradually entangled in all the pernicious labyrinths of European politics and wars; and by the destructive contentions of the parts, into which she was devided, would be likely to become a prey to the artifices and machinations of powers equally the enemies of them all. *Divide et impera*^(a) must be the motto of every nation, that either hates, or fears us.

(a) *Divide and command.*

1. For Congress and the question of western lands, see CDR, 57-63, 150-53, 156-63, 168-74.

2. Since the late colonial period, Pennsylvania and Connecticut claimed jurisdiction over the Wyoming Valley. In 1782 a federal commission, appointed by Congress in accordance with the Articles of Confederation, awarded jurisdiction to Pennsylvania. The Connecticut settlers in the valley, who had purchased land from a Connecticut land company, resisted and were supported by the State of Connecticut.

In 1786 Pennsylvania and Connecticut struck a bargain. Connecticut ceded all of its western lands to Congress, except for a large tract of land just beyond the western boundary of Pennsylvania. This tract became known as the Western Reserve. Pennsylvania agreed not to question Connecticut's right to the reserved land, while Connecticut agreed to give up its claims or those of its land companies to lands in Pennsylvania. Aware of the bargain, Congress accepted Connecticut's cession.

3. In 1777 Vermont declared its independence from New York and sought admission to the Union as a separate state. New York opposed statehood and tried to get Congress to punish the Vermonters. Throughout the Confederation years the question of Vermont statehood remained an issue and was not resolved until 1791.

4. In March 1787 the Rhode Island legislature noted that many non-residents of the state were using the tender provisions of the paper-money act of May 1786 even though that act was limited to people living in the state. (See CC:263, note 7.) Therefore, the

legislature resolved that judges return any Rhode Island paper money received "from a Debtor out of this state." In retaliation for this "open and direct violation of the principles of justice, and of the articles of confederation," the Connecticut House of Representatives debated a bill that would have made liquidated state securities legal tender in payment of debts owed by inhabitants of Connecticut to inhabitants of Rhode Island. The bill was defeated on 7 June 1787, but a remonstrance was drawn up to be sent to Congress and to Rhode Island condemning the latter's paper-money policies (*Connecticut Courant*, 18 June).

270 A-B. Pittsburgh and the Constitution

These two documents illustrate the continued interest in the free navigation of the Mississippi River and the protection of the frontier against Indian attacks. For the question of the free navigation of the Mississippi and its impact, see CC:46.

270-A. *Pittsburgh Gazette*, 17 November¹

FRIDAY, November 9, 1787.

At a meeting of the inhabitants of Pittsburgh, at the house of Messrs. Tannehills, for the special purpose of taking the sense of this town with respect to the system of confederate government, proposed by the late convention at Philadelphia.

General JOHN GIBSON² in the Chair.

It was considered that having had an opportunity of hearing on both sides the strictures which have been made upon this system of government, in conversation, in the Gazettes, and in other writings, on mature deliberation, we are of opinion, that it is the result of much political wisdom, good sense and candour in those who framed it; that we have no reason to expect any thing better from any other body of men assembled in convention; that from the necessity of *mutual concession* with the different states, it is not probable that any thing more equal could be formed; that our prosperity depends on our speedy adoption of some mode of government more efficient than that which we now possess; that of all people it becomes us of the western country more especially to desire an object of this kind, as from the weakness of Congress to take proper measures with the courts of Spain and Britain, we are on the one hand deprived of the advantages of the Mississippi trade, which is our natural right, and on the other, are liable to the incursions of the savages, the posts on the lakes not being yet delivered up according to treaty.

Resolved therefore unanimously. That it is our ardent wish and hope that this system of government may be speedily adopted.

Signed by order of the meeting,

JOHN GIBSON, Chairman.

270-B. Alexander Fowler to John Nicholson
Pittsburgh, 9 February 1788 (excerpts)³

I was favoured wt. yours enclosing an excellent Pamphlet, for which I thank you. I have made it as publick as possible; indeed it contains many truths that ought to be written in Letters of Gold. . . .

The Majority of the People in this Country except in this depraved place Pittsburgh are perfectly opposed to our new consolidated Govt.—I find that Dr. Rush entertained the late convention with the virtue and Patriotism of this Plan.⁴ *Hugo*⁵ and some other Pettyfoggers with a few discharged officers *Military*, who in all Countrys I find never fails to embrace dispotick principles, were the conductors of this business—They put *Gibson* into the Chair, and *Brackenridge* wrote the Resolve of the people of this Town and vicinity, which undoubtedly contains *some hundreds* of freeholders, and I don't apprehend there were above a *dozen* or *fifteen* at the meeting. The Dr. ou[gh]t to have *blushed* when he read that resolution—for wretched must the Man be indeed who can be led or even advised by so Arrant a tool as a B—ge—the *bigbellied* Majority seem to have gained their point. They will no doubt endeavour to make this a time of *Jubilee*, of *enthusiasms* of *political debauch*, propitious to their own views and wishes. It is evident that they do not wish we should either reason or reflect. It has been the superior wisdom & policy of this party—perhaps in imitation of all other dispotick Majorities—to precipitate the honest unsuspecting yeomanry of Penna. into a surrender of their rights, as thoughtless prodigals are often tempted to sign and seal their own ruin overnight, and then awake to all the anguish of repentance in the Morning. That this will be the case with the infatuated People of Penna. I will foresee. I would have wrote you a long Letter, but I have not a scrap of more Paper. . . .

1. This item was reprinted in the December issue of the Philadelphia *American Museum* and in seventeen newspapers by 7 February 1788: N.H. (1), Mass. (4), R.I. (2), Conn. (1), N.Y. (2), Pa. (3), Md. (2), Va. (1), S.C. (1). For a newspaper article supporting a strong central government and the free navigation of the Mississippi, see “G,” *Pittsburgh Gazette*, 10 November, Mfm:Pa. 217.

2. Gibson (1740–1822) had been a colonel in the Continental Army. He served in the Pennsylvania constitutional convention of 1789–1790.

3. RC, Nicholson Papers, PHarH. Printed: Mfm:Pa. 414. Addressed: “Favoured by J[ohn] Irwin Esqr.” Endorsed: “Recd Feby 21st 1788.” Fowler (d. 1806), a Pittsburgh merchant, resigned his commission as captain in the British army in the mid-1770s and became auditor of the Western Military Department of the American army. During the 1790s he was one of the leading Democratic-Republicans in western Pennsylvania.

4. Fowler probably refers to Benjamin Rush's speech of 12 December 1787 in which Rush claimed that the “hand of God” had been employed in drafting the Constitution (RCS:Pa., 592–96).

5. Hugh H. Brackenridge (1748–1816), a Pittsburgh lawyer, had represented Westmoreland County in the Pennsylvania Assembly in 1786 and 1787, where he advocated the free navigation of the Mississippi and the calling of a convention to ratify the Constitution. In 1787 and 1788 he published several essays and poems supporting the Constitution in the *Pittsburgh Gazette* (see Mfm: Pa. 167, 196, 197, 251, 475, 533, 585, 679, 696).

**271. James Madison to George Washington
New York, 18 November (excerpt)¹**

Your favor of the 5th. instant² found me in Philada. whither I had proceeded, under arrangements for proceeding to Virginia or returning to this place, as I might there decide. I did not acknowledge it in Philada. because I had nothing to communicate, which you would not receive more fully and correctly from the Mr. Morris's³ who were setting out for Virginia.

All my informations from Richmond concur in representing the enthusiasm in favor of the new Constitution as subsiding, and giving place to a spirit of criticism. I was fearful of such an event from the influence and co-operation of some of the adversaries. I do not learn however that the cause has lost its majority in the Legislature, and still less among the people at large.

I have nothing to add to the information heretofore given concerning the progress of the Constitution in other States. Mr. Gerry has presented his objections to the Legislature in a letter addressed to them, and signified his readiness if desired to give the particular reasons on which they were founded.⁴ The Legislature it seems decline the explanation, either from a supposition that they have nothing further to do in the business, having handed it over to the Convention; or from an unwillingness to countenance Mr. Gerry's conduct; or from both these considerations. It is supposed that the promulgation of this letter will shake the confidence of some, and embolden the opposition of others in that State; but I cannot discover any ground for distrusting the prompt & decided concurrence of a large majority.

I inclose herewith the 7 first numbers of the federalist, a paper addressed to the people of this State. They relate entirely to the importance of the Union. If the whole plan should be executed, it will present to the public a full discussion of the merits of the proposed Constitution in all its relations. From the opinion I have formed of the views of a party in Virginia I am inclined to think that the observations on the first branch of the subject may not be superfluous antidotes in that State, any more than in this. If you concur with me, perhaps the papers may be put into the hand of some of your confidential correspondents at Richmond who would have them reprinted there. I will not conceal *from you*

that I am likely to have such a *degree* of connection with the publication here, as to afford a restraint of delicacy from interesting myself directly in the republication elsewhere. You will recognize one of the pens concerned in the task. There are three in the whole. A fourth may possibly bear a part. . . .⁵

1. RC, Washington Papers, DLC. Printed: Rutland, *Madison*, X, 253-55.

2. For Washington's letter of 5 November, see *ibid.*, 242-43.

3. For Robert and Gouverneur Morris in Virginia, see CC:255, note 2.

4. For Gerry's letter of 18 October, published in the *Massachusetts Centinel* on 3 November, see CC:227-A. The letter was reprinted in New York City in the *Daily Advertiser* and *New York Packet* on 13 November.

5. On 30 November Washington sent the essays to David Stuart, a delegate to the House of Delegates meeting in Richmond, and asked him to get them published in some Richmond newspaper (CC:308). *The Federalist* 1-3 were reprinted in the *Virginia Independent Chronicle* on 12, 19, and 26 December. For a general discussion of the authorship, circulation, and impact of *The Federalist*, see CC:201.

272. A Landholder III Connecticut Courant, 19 November¹

To the Holders and Tillers of Land.

GENTLEMEN, When we rushed to arms for preventing British usurpation, liberty was the argument of every tongue.

This word would open all the resources of the country and draw out a brigade of militia rapidly as the most decisive orders of a despotic government. Liberty is a word which, according as it is used, comprehends the most good and the most evil of any in the world. Justly understood it is sacred next to those which we appropriate in divine adoration; but in the mouths of some it means any thing, which will enervate a necessary government, excite a jealousy of the rulers who are our own choice, and keep society in confusion for want of a power sufficiently centered to promote its good. It is not strange that the licentious should tell us a government of energy is inconsistent with liberty, for being inconsistent with their wishes and their vices, they would have us think it contrary to human happiness. In the state this country was left by the war, with want of experience in sovereignty, and the feelings which the people then had; nothing but the scene we had passed thro' could give a general conviction that an internal government of strength is the only means of repressing external violence, and preserving the national rights of the people against the injustice of their own brethren. Even the common duties of humanity will gradually go out of use, when the constitution and laws of a country, do not insure justice from the public and between individuals. American experience, in our present deranged state, hath again proved these great truths, which have been

verified in every age since men were made and became sufficiently numerous to form into public bodies. A government capable of controlling the whole, and bringing its force to a point is one of the prerequisites for national liberty. We combine in society, with an expectation, to have our persons and properties defended against unreasonable exactions either at home or abroad. If the public are unable to protect us against the unjust impositions of foreigners, in this case we do not enjoy our natural rights, and a weakness in government is the cause. If we mean to have our natural rights and properties protected, we must first create a power which is able to do it, and in our case there is no want of resources, but only of a civil constitution which may draw them out and point their force.

The present question is shall we have such a constitution or not? We allow it to be a creation of power; but power when necessary for our good is as much to be desired as the food we eat or the air we breathe. Some men are mightily afraid of giving power lest it should be improved for oppression; this is doubtless possible, but where is the probability. The same objection may be made against the constitution of every state in the union, and against every possible mode of government; because a power of doing good always implies a power to do evil if the person or party be disposed.

The right of the legislature to ordain laws binding on the people, gives them a power to make bad laws.

The right of the judge to inflict punishments, gives him both power and opportunity to oppress the innocent; yet none but crazy men will from thence determine that it is best to have neither a legislature nor judges.

If a power to promote the best interest of the people, necessarily implies a power to do evil, we must never expect such a constitution in theory as will not be open in some respects to the objections of carping and jealous men. The new Constitution is perhaps more cautiously guarded than any other in the world, and at the same time creates a power which will be able to protect the subject; yet doubtless objections may be raised, and so they may against the constitution of each state in the union. In Connecticut the laws are the constitution by which the people are governed, and it is generally allowed to be the most free and popular in the thirteen states. As this is the state in which I live and write, I will instance several things which with a proper colouring and a spice of jealousy appear most dangerous to the natural rights of the people, yet they never have been dangerous in practice, and are absolutely necessary at some times to prevent much greater evil.

The right of taxation or of assessing and collecting money out of the people, is one of those powers which may prove dangerous in the exercise, and which by the new constitution is vested solely in representatives chosen for that purpose. But by the laws of Connecticut, this power called so dangerous may be exercised by the selectmen of each town, and this not only without their consent but against their express will, where they have considered the matter, and judge it improper. This power they may exercise when and so often as they judge necessary! Three justices of the quorum, may tax a whole county in such sums as they think meet, against the express will of all the inhabitants. Here we see the dangerous power of taxation vested in the justices of the quorum and even in Select men, men whom we should suppose as likely to err and tyrannize as the representatives of three millions of people, in solemn deliberation, and amenable to the vengeance of their constituents, for every act of injustice. The same town officers have equal authority where personal liberty is concerned, in a matter more sacred than all the property in the world, the disposal of your children. When they judge fit, with the advice of one justice of the peace, they may tear them from the parents embrace, and place them under the absolute control of such masters as they please; and if the parents reluctance excites their resentment, they may place him and his property under overseers. Fifty other instances fearfull as these might be collected from the laws of the state, but I will not repeat them least my readers should be alarmed where there is no danger. These regulations are doubtless best, we have seen much good and no evil come from them. I adduced these instances to shew, that the most free constitution when made the subject of criticism may be exhibited in frightful colours, and such attempts we must expect against that now proposed. If my countrymen, you wait for a constitution which absolutely bars a power of doing evil, you must wait long, and when obtained it will have no power of doing good. I allow you are oppressed, but not from the quarter that jealous and wrong-headed men would insinuate. You are oppressed by the men, who to serve their own purposes would prefer the shadow of government to the reality. You are oppressed for want of a power which can protect commerce, encourage business, and create a ready demand for the productions of your farms. You are become poor, oppression continued will make wise men mad. The landholders and farmers have long borne this oppression, we have been patient and groaned in secret, but can promise for ourselves no longer; unless relieved madness, may excite us to actions we now dread.

1. This essay, with slight variations, was also printed in the Hartford *American Mercury* on 19 November. It was reprinted six times by 15 January 1788: N.H. (2), Mass. (2), Conn. (2). For the authorship and circulation of "Landholder," see CC:230.

273. Nicholas Gilman to William Irvine
New York, 20 November (excerpt)¹

I am honored with your obliging favor of the 9th instant and am very happy to hear there is so great a probability of the adoption of the new Constitution in your State—The Legislature of New Hampshire are called together on the occasion and I believe there is no reason to doubt of its being adopted in that State—it will go a little harder in Massachusetts but will finally succeed—I have seen a list of the Members chosen for the Convention in Connecticut and there appears to be a very large majority who are known to be in favor of the new p[lan?]. . . .

1. RC, Irvine Papers, PHi. Printed: *Pennsylvania Magazine of History and Biography*, XXIX (1905), 248.

274. Publius: The Federalist 8
New York Packet, 20 November

This essay was written by Alexander Hamilton. It was reprinted in the *New York Daily Advertiser*, 21 November; *New York Independent Journal*, 21 November; *New Haven Gazette*, 29 November (excerpt); *Pennsylvania Gazette*, 19 December; *Hudson Weekly Gazette*, 27 December; *Lansingburgh Northern Centinel*, 1 January 1788; and *Albany Gazette*, 3 January.

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

The FEDERALIST, No. 8.

To the People of the State of New-York.

Assuming it therefore as an established truth that the several States, in case of disunion, or such combinations of them as might happen to be formed out of the wreck of the general confederacy, would be subject to those vicissitudes of peace and war, of friendship and enmity with each other, which have fallen to the lot of all neighbouring nations not united under one government, let us enter into a concise detail of some of the consequences, that would attend such a situation.

War between the States, in the first periods of their separate existence, would be accompanied with much greater distresses than it commonly is in those countries, where regular military establishments have long obtained. The disciplined armies always kept on foot on the continent of Europe, though they bear a malignant aspect to liberty and oeconomy, have notwithstanding been productive of this signal advantage, of rendering sudden conquests impracticable, and of preventing that rapid desolation, which used to mark the progress of war, prior to their introduction. The art of fortification has contributed to the same ends. The nations of Europe are incircled with chains of fortified places, which mutually obstruct invasion. Campaigns are wasted in reducing

two or three frontier garrisons, to gain admittance into an enemy's country. Similar impediments occur at every step, to exhaust the strength and delay the progress of an invader. Formerly an invading army would penetrate into the heart of a neighbouring country, almost as soon as intelligence of its approach could be received; but now a comparatively small force of disciplined troops, acting on the defensive with the aid of posts, is able to impede and finally to frustrate the enterprises of one much more considerable. The history of war, in that quarter of the globe, is no longer a history of nations subdued and empires overturned, but of towns taken and retaken, of battles that decide nothing, of retreats more beneficial than victories, of much effort and little acquisition.

In this country the scene would be altogether reversed. The jealousy of military establishments, would postpone them as long as possible. The want of fortifications leaving the frontiers of one State open to another, would facilitate inroads. The populous States would with little difficulty overrun their less populous neighbours. Conquests would be as easy to be made, as difficult to be retained. War therefore would be desultory and predatory. **PLUNDER** and devastation ever march in the train of irregulars. The calamities of individuals would make the principal figure in the events, which would characterise our military exploits.

This picture is not too highly wrought, though I confess, it would not long remain a just one. Safety from external danger is the most powerful director of national conduct. Even the ardent love of liberty will, after a time, give way to its dictates. The violent destruction of life and property incident to war—the continual effort and alarm attendant on a state of continual danger, will compel nations the most attached to liberty, to resort for repose and security, to institutions, which have a tendency to destroy their civil and political rights. To be more safe they, at length, become willing to run the risk of being less free.

The institutions alluded to are **STANDING ARMIES**, and the correspondent appendages of military establishments. Standing armies it is said are not provided against in the new constitution; and it is therefore inferred, that they may exist under it.^(a) Their existence however from the very terms of the proposition, is, at most, problematical & uncertain. But standing armies, it may be replied, must inevitably result from a dissolution of the confederacy. Frequent war and constant apprehension, which requires a state of as constant preparation, will infallibly produce them. The weaker States or confederacies, would first have recourse to them, to put themselves upon an equality with their more potent neighbours. They would endeavour to supply the inferiority of population

and resources, by a more regular and effective system of defence, by disciplined troops and by fortifications. They would, at the same time, be necessitated to strengthen the executive arm of government; in doing which, their constitutions would acquire a progressive direction towards monarchy. It is of the nature of war to increase the executive at the expense of the legislative authority.

The expedients which have been mentioned, would soon give the States or confederacies that made use of them, a superiority over their neighbours. Small States, or States of less natural strength, under vigorous governments, and with the assistance of disciplined armies, have often triumphed over larger States, or States of greater natural strength, which have been destitute of these advantages. Neither the pride, nor the safety of the more important States, or confederacies, would permit them long to submit to this mortifying and adventitious inferiority. They would quickly resort to means similar to those by which it had been effected, to reinstate themselves in their lost pre-eminence. Thus we should in a little time see established in every part of this country, the same engines of despotism, which have been the scourge of the old world. This at least would be the natural course of things, and our reasonings will be the more likely to be just, in proportion as they are accommodated to this standard.

These are not vague inferences drawn from supposed or speculative defects in a constitution, the whole power of which is lodged in the hands of the people, or their representatives and delegates, but they are solid conclusions drawn from the natural and necessary progress of human affairs.

It may perhaps be asked, by way of objection to this, why did not standing armies spring up out of the contentions which so often distracted the ancient republics of Greece? Different answers equally satisfactory may be given to this question. The industrious habits of the people of the present day, absorbed in the pursuits of gain, and devoted to the improvements of agriculture and commerce are incompatible with the condition of a nation of soldiers, which was the true condition of the people of those republics. The means of revenue, which have been so greatly multiplied by the encrease of gold and silver, and of the arts of industry, and the science of finance, which is the offspring of modern times, concurring with the habits of nations, have produced an intire revolution in the system of war, and have rendered disciplined armies, distinct from the body of the citizens, the inseparable companion of frequent hostility.

There is a wide difference also, between military establishments in a country, seldom exposed by its situation to internal invasions, and in

one which is often subject to them, and always apprehensive of them. The rulers of the former can have no good pretext, if they are even so inclined, to keep on foot armies so numerous as must of necessity be maintained in the latter. These armies being, in the first case, rarely, if at all, called into activity for interior defence, the people are in no danger of being broken to military subordination. The laws are not accustomed to relaxations, in favor of military exigencies—the civil state remains in full vigor, neither corrupted nor confounded with the principles or propensities of the other state. The smallness of the army renders the natural strength of the community an overmatch for it; and the citizens, not habituated to look up to the military power for perfection, or to submit to its oppressions, neither love nor fear the soldiery: They view them with a spirit of jealous acquiescence in a necessary evil, and stand ready to resist a power which they suppose may be exerted to the prejudice of their rights. The army under such circumstances, may usefully aid the magistrate to suppress a small faction, or an occasional mob, or insurrection; but it will be unable to enforce encroachments against the united efforts of the great body of the people.

In a country, in the predicament last described, the contrary of all this happens. The perpetual menacings of danger oblige the government to be always prepared to repel it—its armies must be numerous enough for instant defence. The continual necessity for their services enhances the importance of the soldier, and proportionably degrades the condition of the citizen. The military state becomes elevated above the civil. The inhabitants of territories, often the theatre of war, are unavoidably subjected to frequent infringement on their rights, which serve to weaken their sense of those rights; and by degrees, the people are brought to consider the soldiery not only as their protectors, but as their superiors. The transition from this disposition to that of considering them as masters, is neither remote, nor difficult: But it is very difficult to prevail upon a people under such impressions, to make a bold, or effectual resistance, to usurpations, supported by the military power.

The kingdom of Great Britain falls within the first description. An insular situation, and a powerful marine, guarding it in a great measure against the possibility of foreign invasion, supercede the necessity of a numerous army within the kingdom. A sufficient force to make head against a sudden descent, till the militia could have time to rally and embody, is all that has been deemed requisite. No motive of national policy have demanded, nor would public opinion have tolerated a larger number of troops upon its domestic establishment. There has been, for a long time past, little room for the operation of the other causes, which

have been enumerated as the consequences of internal war. This peculiar felicity of situation has, in a great degree, contributed to preserve the liberty, which that country to this day enjoys, in spite of the prevalent venality and corruption. If, on the contrary, Britain had been situated on the continent, and had been compelled, as she would have been, by that situation, to make her military establishments at home co-extensive with those of the other great powers of Europe, she, like them, would in all probability, be at this day a victim to the absolute power of a single man. 'Tis possible, though not easy, that the people of that island may be enslaved from other causes, but it cannot be by the powers of an army so inconsiderable as that which has been usually kept up in that kingdom.

If we are wise enough to preserve the Union, we may for ages enjoy an advantage similar to that of an insulated situation. Europe is at a great distance from us—Her colonies in our vicinity, will be likely to continue too much disproportioned in strength, to be able to give us any dangerous annoyance. Extensive military establishments cannot, in this position, be necessary to our security. But if we should be disunited, and the integral parts should either remain separated, or which is most probable, should be thrown together into two or three confederacies, we should be in a short course of time, in the predicament of the continental powers of Europe—our liberties would be a prey to the means of defending ourselves against the ambition and jealousy of each other.

This is an idea not superficial or futile, but solid and weighty. It deserves the most serious and mature consideration of every prudent and honest man of whatever party. If such men will make a firm and solemn pause, and meditate dispassionately on the importance of this interesting idea, if they will contemplate it, in all its attitudes, and trace it to all its consequences, they will not hesitate to part with trivial objections to a constitution, the rejection of which would in all probability put a final period to the Union. The airy phantoms that flit before the dis-tempered imaginations of some of its adversaries, would quickly give place to the more substantial forms of dangers real, certain, and formidable.

(a) This objection will be fully examined in its proper place, and it will be shown that the only natural precaution which could have been taken on this subject has been taken; and a much better one than is to be found in any constitution that has been heretofore framed in America, most of which contain no guard at all on this subject.

275. Henry Knox to Nathan Dane
New York, 21 November (excerpt)¹

. . . The new constitution the new constitution is the general cry—The three southern States will probably take it as it stands—Virginia will be strenuously for amendments and alterations. Maryland's intention unexplained as yet—Delaware for it excepting Doctor Tilton² who was not in the convention and therefore is mainly against it.

The elections in Pennsylvania are more favorable to the new constitution than was at first supposed—The whole number will consist of 65 members—49 are known to be for the Constitution

New Jersey warmly for it excepting Mr A Clark³ who now & then gives it a Kick.

New York much as you left it although the warm friends of the new Constitution say that their party gains ground wonderfully—The elections in Connecticut indicate a great Majority in favor of it—Massachusetts and New Hampshire are presumed to be decidedly in favor—Rhode Island—is as she was an outcast.

Notwithstanding the probability that the french have left the Dutch to take care of themselves—it is well ascertained that both England & France are preparing for a War—A Vessel which left Liverpool on the 30th Sept says that in England they press the Americans with the same freedom as if they were Englishmen—were we well toned as a nation, and this report well authenticated, we should have satisfaction for this insult, or declare war against them.

I shall be happy to hear from you at your leisure

1. RC, Dane Papers, Beverley Historical Society.

2. James Tilton (1745-1822), a Dover physician, represented Kent County in the state Council and was state commissioner of loans. He was a leader of the Delaware Whigs.

3. Abraham Clark (1726-1794), the leader of the East Jersey party, was a member of Congress from 1776 to 1778, 1780 to 1783, and 1786 to 1788. He had declined his appointment to the Constitutional Convention. In 1789 he was defeated for election to the U.S. House of Representatives but was elected in 1791. For his position on the Constitution, see CC:95 and Mfm:N.J. 37.

276 A-D. George Mason: Objections to the Constitution
21 November-19 December

During the two months after the Constitutional Convention adjourned, manuscript copies of George Mason's objections to the Constitution circulated in Pennsylvania, New York, Virginia, and New Hampshire. Mason himself was largely responsible for the dissemination. (For a more detailed description of the circulation and impact of the manuscript versions of Mason's objections, see CC:138.)

To offset the influence of the objections, Federalists decided to publish them so that the general public could read them and so that Federalist essayists could reply

to them. On 21 November the staunchly Federalist *Massachusetts Centinel* printed the objections, which had allegedly been obtained from a New York correspondent, to gratify the public and to demonstrate that freedom of discussion and investigation was not being restrained (CC:276-A). The *Centinel* version did not include the paragraph attacking the constitutional provision allowing a simple majority of Congress to enact navigation laws. This omitted paragraph was printed in the *Massachusetts Centinel* on 19 December, preceded by an extract of a letter from a New York correspondent. The correspondent explained that he had received the objections from "a certain antifederal character" who had deliberately deleted the paragraph because it might induce the Northern States to accept the Constitution. He described the "antifederal character's" conduct as "Machiavellian" and stated that Antifederalists "ought no longer to complain of deception" (CC:276-D). James Madison referred to the deletion as another example of the "Tricks" that "are not uncommon with the Enemies of the new Constitution" (to George Washington, 20 December, CC:359). By 7 January 1788 the *Centinel's* incomplete version of the objections was reprinted in twenty-one newspapers: N.H. (2), Mass. (5), R.I. (1), Conn. (4), N.Y. (2), N.J. (1), Pa. (3), Md. (1), S.C. (2). The omitted paragraph was reprinted in four of these newspapers by 3 January: N.H. (1), Mass. (1), R.I. (1), Pa. (1). The *New Haven Gazette* reprinted the missing paragraph on 27 December even though it had never printed the *Centinel's* original version of the objections.

On 22 November the Alexandria *Virginia Journal* published Mason's objections at the request of "Brutus," who was Tobias Lear, George Washington's private secretary (CC:276-B). Lear had obtained a copy of the objections by 19 October, probably from Washington, who had received a copy from Mason early in October (CC:138-A). Washington, however, was not aware that Lear was having them printed. In a preface to the published objections, "Brutus" criticized the previous "clandestine manner" of circulation and wanted to see the objections submitted "to the test of a public investigation" (CC:276-B). The *Journal's* version was complete. It was reprinted in the *Virginia Independent Chronicle*, 5 December; the *Albany Gazette*, 13 December; the *Worcester Magazine*, second week in December; the December issue of the Philadelphia *American Museum*; and in two Richmond, Va., pamphlet anthologies (CC:350). It was also printed as a folio broadside by Thomas Nicolson, the printer of the Richmond *Virginia Gazette and Weekly Advertiser* (Ford, *Pamphlets*, 327-32). On 17 February 1788 David Stuart possibly had this broadside reprinting in mind when he reported that one individual had his "pockets full" of the objections and that he left them wherever he went in Fairfax County (to George Washington, Washington Papers, DLC).

One other version of Mason's objections appeared in print. On 23 November 1787 the Winchester *Virginia Gazette* published the objections under the heading "*Objections to the Constitution formed by the Federal Convention. By Colonel M * * * N.*" This version, which was never reprinted, is similar to the unrevised handwritten objections found on the back of Mason's printed copy of the report of the Committee of Style of the Constitutional Convention. (Mason's copy of the report is in the Chapin Library, Williams College, Williamstown, Mass. It is printed in Kate Mason Rowland, *The Life of George Mason, 1725-1792* . . . [2 vols., New York, 1892], II, 387-90.)

Mason's objections elicited private and public commentary for several months after they were published. William Heath of Boston believed that the objections were "sensible and pointed," while Roger Sherman thought that Mason's fears were "groundless." Joseph Barrell, a Boston merchant, asserted that some of the objections "would disgrace a Tyrant" (Heath Diary, 22 November, MHi; From

Roger Sherman, 8 December, CC:331; Joseph Barrell to Nathaniel Barrell, 20 December, CC:358).

The public commentary on the objections was widespread and overwhelmingly hostile. The earliest Federalist criticism appeared in the *Massachusetts Centinel* on 28 November—one week after the newspaper had printed the objections. “One of the Middling-Interest” refuted Mason’s first objection—the lack of a declaration of rights—by asserting that the Constitution did not endanger or take away any rights. Soon after, “Brutus” (Tobias Lear) explained that he had had the objections published because the matter was “wholly of a public nature.” Few people had seen the objections in manuscript and it would have been unfair to Mason if the objections had not been printed before they were criticized. “Brutus” then rebutted Mason point-by-point, concluding that so long as congressmen were elected, the rights of the people would be secured (*Virginia Journal*, 6 December). For other criticisms of Mason’s objections, see “Landholder” (Oliver Ellsworth), VI, VIII, *Connecticut Courant*, 10, 24 December (CC:335, 371); “Thomas a Kempis,” *Massachusetts Centinel*, 15 December; *New Jersey Journal*, 19, 26 December (RCS:N.J., 154-61); *Pennsylvania Gazette*, 2, 16, 23 January 1788; *Pennsylvania Packet*, 9 January; “Caroliniensis,” *Charleston City Gazette*, 11 January; “Philanthropos” (Tench Coxe), *Philadelphia Independent Gazetteer*, 16 January; “An Independent Freeholder” (Alexander White), *Winchester Virginia Gazette*, 18, 25 January; “Valerius,” *Baltimore Maryland Gazette*, 29 January; “Civis Rusticus” and “The State Soldier” III, *Virginia Independent Chronicle*, 30 January, 12 March; “A Citizen of the United States,” *Pennsylvania Gazette*, 13 February; “Marcus” (James Iredell), *Answers to Mr. Mason’s Objections to the New Constitution . . .* (Evans 45276); “A Native of Virginia,” *Observations upon the Proposed Plan of Federal Government . . .* (Evans 21264); and *Salem Mercury*, 22 April.

The defenses of Mason and his objections paled next to this Federalist onslaught. Not one extended defense of Mason’s arguments was published. “Philanthropos” stated that Mason wanted to demonstrate that the Constitution would result in despotism, depriving people of rights won in the Revolution (*Virginia Journal*, 6 December). An anonymous piece in the *Pennsylvania Herald* described Mason as “a workman of indisputable abilities,” who feared the Constitution would destroy the states (9 January 1788, Mfm:Pa. 317). See also Boston *American Herald*, 14 January; “Deliberator,” *Philadelphia Freeman’s Journal*, 2 April (Mfm:Pa. 594); and *Philadelphia Independent Gazetteer*, 16 April.

276-A. *George Mason’s Objections*
Massachusetts Centinel, 21 November

(From a correspondent at New-York, who frequently furnishes us with authentick information from that quarter, we received, by the last mail, the Hon. Mr. MASON’s *Objections to the Federal Constitution*—which we thus early lay before the publick for their gratification, and, if it were necessary, to convince them how false the carpings of those men are who pretend that the freedom of discussion and investigation of the new constitution are restrained.)

The Hon. GEORGE MASON’S Objections to the New Constitution.

There is no declaration of rights, and of the laws of the general government being paramount to the laws and constitutions of the several

States, the declarations of rights in the separate States are no security. Nor are the people secured even in the enjoyment of the benefit of the common law, which stands here upon no other foundation than its having been adopted by the respective acts forming the Constitutions of the several States.

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

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

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

The President of the United States has no Constitutional Council (a thing unknown in any safe and regular government) he will therefore be unsupported by proper information and advice; and will generally be directed by minions and favourites—or he will become a tool to the Senate—or a Council of State will grow out of the principal officers of the great departments; the worst and most dangerous of all ingredients for such a Council, in a free country; for they may be induced to join in any dangerous or oppressive measures, to shelter themselves, and prevent an inquiry into their own misconduct in office: Whereas had a constitutional council been formed (as was proposed) of six members, viz. two from the eastern, two from the middle, and two from the southern States, to be appointed by vote of the States in the House of Representatives, with the same duration and rotation of office as the Senate, the Executive would always have had safe and proper information and

advice: The President of such a Council might have acted as Vice-President of the United States, *pro tempore*, upon any vacancy or disability of the Chief Magistrate; and long continued sessions of the Senate would in a great measure have been prevented. From this fatal defect of a constitutional council has arisen the improper power of the Senate, in the appointment of public officers, and the alarming dependence and connection between that branch of the Legislature and the Supreme Executive. Hence also sprung that unnecessary and dangerous officer, the Vice-President, who for want of other employment, is made President of the Senate; thereby dangerously blending the Executive and Legislative powers; besides always giving to some one of the States an unnecessary and unjust pre-eminence over the others.

The President of the United States has the unrestrained power of granting pardons for treason; which may be sometimes exercised to screen from punishment those whom he had secretly instigated to commit the crime, and thereby prevent a discovery of his own guilt. By declaring all treaties supreme laws of the land, the Executive and the Senate have in many cases, an exclusive power of Legislation; which might have been avoided, by proper distinctions with respect to treaties, and requiring the assent of the House of Representatives, where it could be done with safety. Under their own construction of the general clause at the end of the enumerated powers, the Congress may grant monopolies in trade and commerce, constitute new crimes, inflict unusual and severe punishment, and extend their power as far as they shall think proper; so that the State Legislatures have no security for the powers now presumed to remain to them; or the people for their rights. There is no declaration of any kind for preserving the liberty of the press, the trial by jury in civil causes, nor against the danger of standing armies in time of peace.

The State Legislatures are restrained from laying export duties on their own produce—the general legislature is restrained from prohibiting the further importation of slaves for twenty odd years, though such importations render the United States weaker, more vulnerable, and less capable of defence.—Both the general legislature, and the state legislatures, are expressly prohibited making *expost facto laws*, though there never was, nor can be a legislature but must and will make such laws, when necessity and the public safety require them; which will hereafter be a breach of all the Constitutions in the union, and afford precedents for other innovations.

This government will commence in a moderate aristocracy, it is at present impossible to foresee whether it will, in its operation, produce a monarchy, or a corrupt oppressive aristocracy; it will most probably

vibrate some years between the two, and then terminate in the one or the other.

(a) *This objection has been in some degree lessened, by an amendment, often before refused, and at last made by an erasure, after the engrossment upon parchment, of the word forty, and inserting thirty, in the 3d clause of the 2d section of the 1st article.*

276-B. *Brutus on Mason's Objections*
Virginia Journal, 22 November

To the PRINTERS of the VIRGINIA JOURNAL
and ALEXANDRIA ADVERTISER.

Gentlemen, At this important crisis when we are about to determine upon a government which is not to effect us for a month, for a year, or for our lives: but which, it is probable, will extend its consequences to the remotest posterity, it behoves every friend to the rights and privileges of man, and particularly those who are interested in the prosperity and happiness of this country, to step forward and offer their sentiments upon the subject in an open, candid and independent manner.—Let the constitution proposed by the late Convention be dispassionately considered and fully canvassed.—Let no citizen of the United States of America, who is capable of discussing the important subject, retire from the field.—And, above all, let no one disseminate his objections to, or his reasons for approving of the constitution in such a manner as to gain partizans to his opinion, without giving them an opportunity of seeing how effectually his sentiments may be controverted, or how far his arguments may be invalidated.—For when a man of acknowledged abilities and great influence (and particularly one who has paid attention to the subject) *hands forth* his opinion, upon a matter of general concern, among those upon whom he has reason to think it will make the most favorable impression, without submitting it to the test of a public investigation, he may be truly said to take an undue advantage of his influence, and appearances would justify a supposition that he wished to effect, in a clandestine manner, that which he could not accomplish by an open and candid application to the public.

I expected, Gentlemen, that Col. Mason's objections to the proposed constitution would have been conveyed to the public, before this time, through the channel of your, or some other paper, but as my expectations, in that respect, have not yet been gratified, I shall take the liberty to send you a copy of them for publication, which I think must be highly acceptable to a number of your customers who have not had an opportunity of seeing them in manuscript.

“Objections to the Constitution of Government formed by the Convention.

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

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

“The Senate have the power of altering all money-bills, and of originating appropriations of money, and the salaries of the officers of their own appointment in conjunction with the President of the United States; although they are not the representatives of the people, or amenable to them.

“These with their other great powers (viz. their power in the appointment of ambassadors and other public officers, in making treaties, and in trying all impeachments) their influence upon and connection with the supreme executive from these causes, their duration of office, and their being a constant existing body almost continually sitting, joined with their being one complete branch of the Legislature, will destroy any balance in the government, and enable them to accomplish what usurpations they please upon the rights and liberties of the people.

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

“The President of the United States has no constitutional council (a thing unknown in any safe and regular government) he will therefore be unsupported by proper information and advice; and will be generally directed by minions and favorites—or he will become a tool to the Senate—or a Council of State will grow out of the principal officers of the great departments; the worst and most dangerous of all ingredients for such a council in a free country; for they may be induced to join in any dangerous or oppressive measures, to shelter themselves, and prevent an inquiry into their own misconduct in office; whereas had a constitutional council been formed (as was proposed) of six members, viz. two from the eastern, two from the middle, and two from the southern

States, to be appointed by vote of the States in the House of Representatives, with the same duration and rotation in office as the Senate, the Executive would always have had safe and proper information and advice, the President of such a council might have acted as Vice-President of the United States, pro tempore, upon any vacancy or disability of the chief Magistrate; and long continued sessions of the Senate would in a great measure have been prevented.

“From this fatal defect of a constitutional council has arisen the improper power of the Senate, in the appointment of public officers, and the alarming dependance and connection between that branch of the Legislature and the supreme Executive.

“Hence also sprung that unnecessary and dangerous officer the Vice-President; who for want of other employment is made President of the Senate; thereby dangerously blending the executive and legislative powers; besides always giving to some one of the States an unnecessary and unjust pre-eminence over the others.

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

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

“By requiring only a majority to make all commercial and navigation laws, the five southern States (whose produce and circumstances are totally different from that of the eight northern and eastern States) will be ruined; for such rigid and premature regulations may be made, as will enable the merchants of the northern and eastern States not only to demand an exorbitant freight, but to monopolize the purchase of the commodities at their own price, for many years: To the great injury of the landed interest, and impoverishment of the people: And the danger is the greater, as the gain on one side will be in proportion to the loss on the other. Whereas requiring two-thirds of the members present in both houses would have produced mutual moderation, promoted the general interest and removed an insuperable objection to the adoption of the government.

“Under their own construction of the general clause at the end of the enumerated powers, the Congress may grant monopolies in trade and commerce, constitute new crimes, inflict unusual and severe punishments, and extend their power as far as they shall think proper; so that

the State Legislatures have no security for the powers now presumed to remain to them; or the people for their rights.

“There is no declaration of any kind for preserving the liberty of the press, the trial by jury in civil causes; nor against the danger of standing armies in time of peace.

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

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

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

“This government will commence in a moderate aristocracy; it is at present impossible to foresee whether it will, in its operation, produce a monarchy, or a corrupt oppressive aristocracy; it will most probably vibrate some years between the two, and then terminate between the one and the other.”

Many of the foregoing objections and the reasonings upon them, appear to be calculated more to alarm the fears of the people, than to answer any good or valuable purpose.—Some of them are raised upon so slender a foundation as would render it doubtful whether they were the production of Col. *Mason's* abilities, if an incontestible evidence of their being so could not be adduced.

November 19, 1787.

(a) *Col. Mason acknowledges that this objection was in some degree lessened by inserting the word thirty instead of forty, as it was at first determined, in the 3d clause of the 2d section of the 1st article.*

276-C. *Tobias Lear to John Langdon*
Mount Vernon, 3 December¹

Your obliging favor of the 3d Ulto. came to hand last week.—You will please to accept of my best thanks for the information contained in it.—I now, for once, feel proud of being a native of that part of America which discovers the wisdom of its inhabitants & a just idea of its true interest by receiving the proposed national constitution in so favourable a manner.—I think Colo. *Mason* must, by this time, wish that he had not handed forth his objections as so early a period, or at least that he had

considered the matter a little more deliberately—he gave them in manuscript to persons in all parts of the country where he supposed they would make an impression, but avoided publishing them.²—I waited for a long time in expectation that they would appear in the publick papers, but finding they did not, I conveyed a copy of them to the printer of the Virginia Journal who published them, this has had a good effect as the futility of them strikes every unprejudiced person who reads them.—I have answered some of them & am now answering the rest, but as it is under an assumed signature, it is not known, even to the General, by whom it is done.³ I do not flatter myself that I am able to cope with a man of Colo. Mason's abilities, on a subject which has been the chief business & study of his life, but my situation here gives me so good an opportunity of gaining information in all matters of publick & governmental concern, that, joined to the knowledge which I have acquired from reading will, I think enable me to accomplish the task which I have undertaken.

I can say nothing with certainty upon what will be the issue of the proposed Government in this State, it has many able opponents here, at the head of whom are Mr. Henry, Colo. Mason & Mr. R. H. Lee, I was very sorry to find the latter among the number because I think he is a worthy, honest character & opposes it from principle.

Mr. Henry's conduct is somewhat unaccountable, he reprobates the present confederation; reviles the proposed constitution & yet points out nothing that is better; if I may be allowed to form an opinion, from his conduct, of what would be his wish, it is to divide the Southern States from the others.⁴ Should that take place, Virginia would hold the first place among them, & he the first place in Virginia—But this is conjecture.

I shall do myself the pleasure to communicate to you from time to time whatever may transpire here worthy of your attention.—I must beg of you, my dear Sir, to tell my friends in Portsmouth that I hold them in the most affectionate rem[em]brance & that my not writing to them oftener does not proceed from a want of respect but from want of time—since the Genls. return from Philadelphia his correspondents from all parts of Europe & America have poured their letters upon him so fast that it requires my constant & unremitting attention to them, and to be candid with you, my dear Sir, you are more obliged to him for the trouble of this letter than to me, for as he was about to write to you himself he asked me if I should answer your letter⁵ at this time, I told him I did not think I should be able to do it, he replied “that it should be done”—I was therefore obliged to obey—tho' it will cost him half an hour of his own time to do what I should have been doing for him.—

276-D. *Extract of a Letter from New York, dated 7 December
Massachusetts Centinel, 19 December*

Extract of a letter to the Printer of this paper, from his correspondent at New-York, dated Dec. 7, 1787.

“The copy of the objections of Col. Mason to the federal Constitution—which I sent you a few weeks since, I obtained from a certain anti-federal character, in this city—who, it since appears, like a true antifederalist, omitted one objection, which was the principal in Col. Mason’s mind—and which he well knew, would, if published in the northern States, be an inducement to them to accept of the Constitution. I shall only remark on this his Machiavelian conduct—that the enemies to the Federal plan, ought no longer to complain of deception—The article omitted, and which you may rely, is authentick, is as follows, viz.

“By requiring only a majority to make all commercial and navigation laws, the five southern States (whose produce and circumstances are totally different from that of the eight northern and eastern States) will be ruined; for such rigid and premature regulations may be made as will enable the merchants of the northern and eastern States not only to demand an exorbitant freight, but to monopolize the purchase of the commodities at their own price, for many years; to the great injury of the landed interest, and impoverishment of the people: And the danger is the greater, as the gain on one side will be in proportion to the loss on the other. Whereas requiring two thirds of the members present in both houses would have produced mutual moderation, promoted the general interest, and removed an insuperable objection to the adoption of the government.”

1. RC, Langdon/Elwyn Papers, NhHi. Lear (1762-1816), a graduate of Harvard College (1783), was George Washington’s private secretary from 1786 to 1793. Lear read law while employed by Washington. Langdon (1741-1819) was a member of Congress, 1775-76, 1787; speaker, N.H. House of Representatives, 1777-83, 1786-87, 1788; state senator, 1784-85; and N.H. President, 1785-86, 1788-89. He signed the Constitution in the Constitutional Convention in 1787, voted for ratification in the New Hampshire Convention in June 1788, and was elected U.S. Senator in November 1788.

2. On 19 October Lear sent Langdon a manuscript copy of the objections, stating that some of Mason’s “observations appear to be founded in truth, & their inconveniencies were undoubtedly seen by the Convention, but they found it necessary to make some sacrifices for the general welfare in order to render it as unexceptionable as possible to all parties.—Others seem to be calculated only to alarm the fears of the people, and consequently raise objections in their minds which would not otherwise have been thought of. However, let his *views* in raising these objections be what they may, I hope the people will have too much good sense to be influenced by them.—Colo: Mason is certainly a man of superior abilities—he is sensible of it, & having generally felt his own weight & influence in those publick bodies where he has acted heretofore, he has contracted the idea of *‘aut Cæsar, aut nullus;’* but finding a strong opposition to his opinion upon some points in

the Convention, don't you think he felt himself piqued?" (Langdon/Elwyn Papers, NhHi).

3. "Brutus," *Virginia Journal*, 22 November (CC:276-B) and 6 December.

4. Lear's opinion was shared by other Virginians. As early as March 1787 John Marshall reported that Henry "has been heard to say that he would rather part with the confederation than relinquish the navigation of the Mississippi" (to Arthur Lee, 5 March, Richard Henry Lee, *Life of Arthur Lee* . . . [2 vols., Boston, 1829], II, 321). Three months later James Madison believed that Henry was "hostile to the object" of the Constitutional Convention and that he wished "either a partition or total dissolution of the confederacy" (to Thomas Jefferson, 6 June, Rutland, *Madison*, X, 30. See also Madison to Randolph, 10 January 1788, *ibid.*, 355.). In December George Gilmer stated that Henry "appears to wish more federal plans than one"; while in February 1788 Edward Carrington charged that Henry sought "a dismemberment of the Union" (Gilmer to Jefferson, 23 December, Boyd, XII, 453; Carrington to Madison, 10 February, Rutland, *Madison*, X, 494). In June 1788 John Blair Smith noted that "The idea of Virginia standing independent of the other states, or forming a partial confederacy or a foreign alliance is more openly avowed by some people in this quarter, than any where else, & I am certain the sentiment originated with the old Govr. It grieves me to see such great natural talents abused to guilty purposes" (to Madison, 12 June, *ibid.*, XI, 120). On 9 June Henry himself stated in the Virginia Convention that separate confederacies, when compared to the consolidated government of the Constitution, "are little evils" (Elliot, *Debates*, III, 161).

5. Langdon had written Washington on 6 November that he had "not heard a single person object" to the Constitution and that New Hampshire would call an early convention (Washington Papers, DLC).

277. Publius: The Federalist 9

New York Independent Journal, 21 November

This essay was written by Alexander Hamilton. It was also published in the New York *Daily Advertiser* on 21 November, and it was reprinted in the *New York Packet*, 23 November; *Salem Mercury*, 4 December (excerpt); *Pennsylvania Gazette*, 26 December; *Hudson Weekly Gazette*, 3 January 1788; *Lansingburgh Northern Centinel*, 8 January; and *Albany Gazette*, 10 January.

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

THE FØEDERALIST. No. IX.

To the People of the State of New-York.

A Firm Union will be of the utmost moment to the peace and liberty of the States as a barrier against domestic faction and insurrection. It is impossible to read the history of the petty Republics of Greece and Italy, without feeling sensations of horror and disgust at the distractions with which they were continually agitated, and at the rapid succession of revolutions, by which they were kept in a state of perpetual vibration, between the extremes of tyranny and anarchy. If they exhibit occasional calms, these only serve as short-lived contrasts to the furious storms that are to succeed. If now and then intervals of felicity open themselves to view, we behold them with a mixture of regret arising from the reflec-

tion that the pleasing scenes before us are soon to be overwhelmed by the tempestuous waves of sedition and party-rage. If momentary rays of glory break forth from the gloom, while they dazzle us with a transient and fleeting brilliancy, they at the same time admonish us to lament that the vices of government should pervert the direction and tarnish the lustre of those bright talents and exalted endowments, for which the favoured soils, that produced them, have been so justly celebrated.

From the disorders that disfigure the annals of those republics, the advocates of despotism have drawn arguments, not only against the forms of republican government, but against the very principles of civil liberty. They have decried all free government, as inconsistent with the order of society, and have indulged themselves in malicious exultation over its friends and partizans. Happily for mankind, stupendous fabrics reared on the basis of liberty, which have flourished for ages, have in a few glorious instances refuted their gloomy sophisms. And, I trust, America will be the broad and solid foundation of other edifices not less magnificent, which will be equally permanent monuments of their errors.

But it is not to be denied that the portraits, they have sketched of republican government, were too just copies of the originals from which they were taken. If it had been found impracticable, to have devised models of a more perfect structure, the enlightened friends to liberty would have been obliged to abandon the cause of that species of government as indefensible. The science of politics, however, like most other sciences has received great improvement. The efficacy of various principles is now well understood, which were either not known at all, or imperfectly known to the ancients. The regular distribution of power into distinct departments—the introduction of legislative ballances and checks—the institution of courts composed of judges, holding their offices during good behaviour—the representation of the people in the legislature by deputies of their own election—these are either wholly new discoveries or have made their principal progress towards perfection in modern times. They are means, and powerful means, by which the excellencies of republican government may be retained and its imperfections lessened or avoided. To this catalogue of circumstances, that tend to the amelioration of popular systems of civil government, I shall venture, however novel it may appear to some, to add one more on a principle, which has been made the foundation of an objection to the New Constitution, I mean the ENLARGEMENT of the ORBIT within which such systems are to revolve either in respect to the dimensions of a single State, or to the consolidation of several smaller States into one great confederacy. The latter is that which immediately concerns the object

under consideration. It will however be of use to examine the principle in its application to a single State which shall be attended to in another place.

The utility of a confederacy, as well to suppress faction and to guard the internal tranquillity of States, as to increase their external force and security, is in reality not a new idea. It has been practiced upon in different countries and ages, and has received the sanction of the most applauded writers, on the subjects of politics. The opponents of the PLAN proposed have with great assiduity cited and circulated the observations of Montesquieu on the necessity of a contracted territory for a republican government. But they seem not to have been apprised of the sentiments of that great man expressed in another part of his work, nor to have adverted to the consequences of the principle to which they subscribe, with such ready acquiescence.

When Montesquieu recommends a small extent for republics,¹ the standards he had in view were of dimensions, far short of the limits of almost every one of these States. Neither Virginia, Massachusetts, Pennsylvania, New-York, North-Carolina, nor Georgia, can by any means be compared with the models, from which he reasoned and to which the terms of his description apply. If we therefore take his ideas on this point, as the criterion of truth, we shall be driven to the alternative, either of taking refuge at once in the arms of monarchy, or of splitting ourselves into an infinity of little jealous, clashing, tumultuous commonwealths, the wretched nurseries of unceasing discord and the miserable objects of universal pity or contempt. Some of the writers, who have come forward on the other side of the question, seem to have been aware of the dilemma; and have even been bold enough to hint at the division of the larger States, as a desirable thing. Such an infatuated policy, such a desperate expedient, might, by the multiplication of petty offices, answer the views of men, who possess not qualifications to extend their influence beyond the narrow circles of personal intrigue, but it could never promote the greatness or happiness of the people of America.

Referring the examination of the principle itself to another place, as has been already mentioned, it will be sufficient to remark here, that in the sense of the author who had been most emphatically quoted upon the occasion, it would only dictate a reduction of the SIZE of the more considerable MEMBERS of the Union; but would not militate against their being all comprehended in one Confederate Government. And this is the true question, in the discussion of which we are at present interested.

So far are the suggestions of Montesquieu from standing in opposition to a general Union of the States, that he explicitly treats of a CONFEDERATE REPUBLIC as the expedient for extending the sphere of popular government and reconciling the advantages of monarchy with those of republicanism.

“It is very probable (says he^(a)) that mankind would have been obliged, at length, to live constantly under the government of a SINGLE PERSON, had they not contrived a kind of constitution, that has all the internal advantages of a republican, together with the external force of a monarchical government. I mean a CONFEDERATE REPUBLIC.”

“This form of Government is a Convention, by which several smaller *States* agree to become members of a larger *one*, which they intend to form. It is a kind of assemblage of societies, that constitute a new one, capable of encreasing by means of new associations, till they arrive to such a degree of power as to be able to provide for the security of the united body.”

“A republic of this kind, able to withstand an external force, may support itself without any internal corruption. The form of this society prevents all manner of inconveniencies.”

“If a single member should attempt to usurp the supreme authority, he could not be supposed to have an equal authority and credit, in all the confederate states. Were he to have too great influence over one, this would alarm the rest. Were he to subdue a part, that which would still remain free might oppose him with forces, independent of those which he had usurped, and overpower him before he could be settled in his usurpation.”

“Should a popular insurrection happen, in one of the confederate States, the others are able to quell it. Should abuses creep into one part, they are reformed by those that remain sound. The State may be destroyed on one side, and not on the other; the confederacy may be dissolved, and the confederates preserve their sovereignty.”

“As this government is composed of small republics it enjoys the internal happiness of each, and with respect to its external situation it is possessed, by means of the association of all the advantages of large monarchies.”

I have thought it proper to quote at length these interesting passages, because they contain a luminous abridgement of the principal arguments in favour of the Union, and must effectually remove the false impressions, which a misapplication of other parts of the work was calculated to make. They have at the same time an intimate connection with the more immediate design of this Paper; which is to illustrate the tendency of the Union to repress domestic faction and insurrection.

A distinction, more subtle than accurate has been raised between a *confederacy* and a *consolidation* of the States. The essential characteristic of the first is said to be, the restriction of its authority to the members in their collective capacities, without reaching to the individuals of whom they are composed. It is contended that the national council ought to have no concern with any object of internal administration. An exact equality of suffrage between the members has also been insisted upon as a leading feature of a Confederate Government. These positions are in the main arbitrary; they are supported neither by principle nor precedent. It has indeed happened that governments of this kind have generally operated in the manner, which the distinction, taken notice of, supposes to be inherent in their nature—but there have been in most of them extensive exceptions to the practice, which serve to prove as far as example will go, that there is no absolute rule on the subject. And it will be clearly shewn, in the course of this investigation, that as far as the principle contended for has prevailed, it has been the cause of incurable disorder and imbecility in the government.

The definition of a *Confederate Republic* seems simply to be, an “assemblage of societies” or an association of two or more States into one State. The extent, modifications and objects of the Fœderal authority are mere matters of discretion. So long as the separate organisation of the members be not abolished, so long as it exists by a constitutional necessity for local purposes, though it should be in perfect subordination to the general authority of the Union, it would still be, in fact and in theory, an association of States, or a confederacy. The proposed Constitution, so far from implying an abolition of the State Governments, makes them constituent parts of the national sovereignty by allowing them a direct representation in the Senate, and leaves in their possession certain exclusive and very important portions of sovereign power—This fully corresponds, in every rational import of the terms, with the idea of a Fœderal Government.

In the Lycian confederacy, which consisted of twenty three CITIES, or republics, the largest were intitled to *three* votes in the COMMON COUNCIL, those of the middle class to *two* and the smallest to *one*. The COMMON COUNCIL had the appointment of all the judges and magistrates of the respective CITIES. This was certainly the most delicate species of interference in their internal administration; for if there be any thing, that seems exclusively appropriated to the local jurisdictions, it is the appointment of their own officers. Yet Montesquieu, speaking of this association, says “Were I to give a model of an excellent confederate republic, it would be that of Lycia.”²² Thus we perceive that the distinctions insisted upon were not within the contemplation of this enlight-

ened civilian, and we shall be led to conclude that they are the novel refinements of an erroneous theory.

(a) *Spirit of Laws, Vol. I. Book IX. Chap. I.*³

1. *Spirit of Laws*, I, Book VIII, chapter XVI, 177-78.
2. *Ibid.*, Book IX, chapter III, 188-89.
3. Pp. 185-87.

278. Philadelphia Freeman's Journal, 21 November¹

Extract of a letter from Queen Anne's county, (Maryland) *November 12.*

"You tell me of the beauties of the new constitution, and that great part of your state are for adopting it,—but this is quite different with our people; nobody now supposes that it will go down in this state, without a bill of rights, and very material alterations. You say, that General Washington's name will force it down in all the states—but you are as much mistaken in that, as I was: I find that our southern states are clearer on this head than any other, that the greatest names ought not to prejudice any man in such an important business; but you will say to this, that the greatest prophet has no honor in his own country. I am often told, when I am arguing with them, that the general would not wish people to adopt it because his name is prefixed to it, and some have told me that the General, Mr. Franklin, and some others, did only sign as witnesses, and that they had no hand in forming it; I have shewn these people Mr. Wilson's speech² which you sent me, but I find it does not answer here—pray send me some good, sound, plain, argumentative pieces, for I am looked very slyly at frequently, and I am afraid that there must be some cause for it. Please inform me how I shall get over this sweeping clause, as they call it, *viz.*—'That the constitution and laws of Congress are to have the power of regulating every thing in the state, and to be the supreme law of the land, any thing in the constitutions or laws of any of the states to the contrary notwithstanding;' for in their arguing for a bill of rights they always throw up this in the way, among other objections. Every body I see from Virginia, informs me, that all is going against us all over that state, and they tell me, that there has been a trial of the proposed plan in a court-house there; when the business of the court was over, the lawyers divided themselves for and against, judges and jury were appointed, when, after several hours debating on both sides, before hundreds of people, the jury, without going out of court, gave their verdict against it unanimously."

1. Reprinted: *New York Packet*, 27 November; *Salem Mercury*, 4 December; *Baltimore Maryland Gazette*, 7 December; *Boston American Herald*, 10 December; *Poughkeepsie Country Journal*, 12 December.

2. For James Wilson's speech of 6 October, see CC:134.

279 A-B. Attack upon and Defense of Rhode Island 21 November

Throughout much of the 1780s, Rhode Island was incessantly attacked for its rejection of the Impost of 1781 and its radical debtor-relief measures. This criticism increased when the state refused to send delegates to the Constitutional Convention. The extract of a Rhode Island letter printed below (CC:279-A) is an example of the numerous newspaper criticisms directed against the state. The item in the Antifederalist *Freeman's Journal* of Philadelphia was one of only a few pieces that defended the state (CC:279-B).

279-A. *Pennsylvania Gazette*, 21 November¹

Extract of a letter from Rhode-Island, dated the 7th instant.

“By the papers now forwarded, you may form some idea of the politics of this state. From the proceedings of our Legislature last week, you may reasonably conclude that *our rulers* have not yet compleated their diabolical Schemes.² How far they mean to carry their vile plans, time alone must make known. A viler and more abandoned sett of beings never disgraced any Legislative, Judicial or Executive Authorities since the Fall of Adam. Every *conscientious* and *honest* man in our devoted republic is employed in contemplating with admiration, and devoutly wishing for the *speedy* adoption of the NEW CONSTITUTION, tho’ their fears are occasionally on the alarm from the ill-founded suggestions of a G-r-y,³ and the more sly insinuations of *your* SIXTEEN seceding members;⁴ performances too well adapted to blow up the flame of disunion, and to imbitter the minds of the people against all *good* and *virtuous government*. (Such men, I am sorry to find, you have in Pennsylvania. Were we favored with a *civil constitution* immediately from Heaven, I have no doubt but that *THEY*, with our abandoned *leaders*, would enter their objections.)⁵ God grant that there may be wisdom and goodness enough still found among the *majority* to adopt, without hesitation, what a WASHINGTON, a FRANKLIN, a MADISON, &c. so warmly recommend. Without this adoption, a civil war, I am afraid, will take place. This *must* arise from the present confusion of our different state governments.—The proceedings of the *Baptist* Association, lately convened at New-York,⁶ are highly approved here. Their brethren throughout the eastern states are also highly federal. May all other christian denominations evidence the same zeal, in cordially recommending and fervently espousing a *firm, vigorous* and *well-established* government, so admirably calculated for the preservation of our dear-bought liberty, CIVIL and RELIGIOUS.”

279-B. Philadelphia Freeman's Journal, 21 November⁷

A correspondent says, that the abuse which has been lately thrown upon the State of Rhode-Island, seems to be greatly unmerited. Popular favour is variable, and those who are now despised and insulted may soon change situations with the present idols of the people. Rhode-Island has outdone even the State of Pennsylvania in the glorious work of freeing the negroes in this country, without which the patriotism of some States appears ridiculous.—The General Assembly of the state of Rhode-Island has prevented the farther importation of negroes, and have made a law, by which all the blacks born in the State after March, 1784, are absolutely and at once free.⁸ They have fully complied with the recommendations of Congress in regard to the late treaty of peace with Great Britain, and have passed an act declaring it to be the law of the land. They have never refused their quota of taxes demanded by Congress, excepting the five per cent. impost,⁹ which they considered as a dangerous tax; and for which, at present, there is perhaps no great necessity, as the western territory, of which a part has very lately been sold at a considerable price, may soon produce an immense revenue; and, in the interim, the Congress may raise in the old manner the taxes which shall be found necessary for the support of the government. The State of Rhode-Island refused to send delegates to the State Convention,¹⁰ and the event has manifested that their refusal was a happy one, as the New Constitution, which the Convention has proposed to us, is an elective monarchy, which is proverbially the worst government. This new government would have been supported at a vast expence, by which our taxes, the right of which is solely vested in Congress, (a circumstance which manifests that the various states of the Union will be mere corporations) would be doubled or trebled; the liberty of the press is not stipulated for, and therefore may be invaded at pleasure; the supreme continental court is to have, almost in every case, “appellate jurisdiction both as to law and fact,” which signifies, if there is any meaning in words, the setting aside the trial by jury; Congress will have the power of guaranteeing to every State a right to import negroes for twenty-one years, by which some of the States who have now declined that iniquitous traffic, may re-enter into it,—for the private laws of every state are to submit to the superior jurisdiction of Congress; a standing army is to be kept on foot, by which the vicious, the sycophantic, and the time-serving will be exalted, and the brave, the patriotic, and the virtuous will be deprest. Our correspondent, therefore, thinks it the part of wisdom to abide, like the state of Rhode-Island, by the old articles of confederation, which, if re-examined with attention, we shall find worthy of great regard; that we should give high praise to the manly and

public spirited sixteen members, who lately seceded from our House of Assembly;¹¹ and that we should all impress with great care this truth upon our minds, That it is very easy to change a free government into an arbitrary one, but that it is very difficult to convert tyranny into freedom.

1. Reprinted: Philadelphia *Independent Gazetteer*, 22 November; New York *Daily Advertiser*, 24 November; Philadelphia *American Museum*, December. This item was also published in the *Pennsylvania Packet* on 21 November and reprinted in the Annapolis *Maryland Gazette* and the Charleston *Columbian Herald* on 6 December (see note 5 below).

2. On 3 November the Rhode Island legislature rejected a resolution calling a state convention to consider the Constitution.

3. For Elbridge Gerry's objections to the Constitution, dated 18 October and published on 3 November, see CC:227-A.

4. For the address of the seceding members of the Pennsylvania Assembly, see CC:125-A.

5. The text within angle brackets was omitted in the *Pennsylvania Packet* version.

6. For the Baptist meeting held during the first week in October 1787, see CC:156-A.

7. Reprinted: Baltimore *Maryland Gazette*, 27 November; Winchester *Virginia Gazette*, 7 December (excerpt); *Massachusetts Gazette*, 7 December; Providence *United States Chronicle*, 13 December. The latter two entitled the item "On the ABUSE bestowed upon RHODE-ISLAND. A SCRAP."

8. For the February 1784 law making all blacks born after 1 March 1784 free, and for the October 1787 law prohibiting the slave trade, see John Russell Bartlett, ed., *Records of the State of Rhode Island . . .* (10 vols., 1856-1865; reprint ed., New York, 1968), X, 7-8, 8, 262. For the opposition of Rhode Island Quakers to the slave-trade clause of the Constitution, see Appendix III.

9. For the Impost of 1781, see CDR, 140-41.

10. The *Massachusetts Gazette* and *United States Chronicle* reprintings changed "State Convention" to "Federal Convention." For Rhode Island's refusal to send delegates to the Convention, see CDR, 225-29.

11. See note 4 above.

280. Pennsylvania Gazette, 21 November¹

Extract of a letter from Wilmington, Nov. 17.

"R---d H--y L-e passed through this town a few days ago, on his way to Virginia. He spent a whole evening in reading his Cincinnatuses,² and in abusing Mr. Wilson and the new government, to a group of school-boys and hostlers, who have since made themselves very merry at his expence. Various reasons are given for the weak part he is acting in this business, but the most probable one is, that it arises from envy of the fame of General Washington, and the dread he entertains of seeing that good man placed in the President's chair of the United States."

1. Reprints by 13 December (5): Mass. (2), R.I. (1), N.Y. (1), N.J. (1). For another version of Richard Henry Lee's alleged Antifederalist activities in Wilmington, Del., see CC:255.

2. "Cincinnatus" I-III were printed in the *New York Journal* on 1, 8, and 15 November (CC:222, 241, 265). No other original contemporary source attributed authorship to Lee. (See CC:287 headnote.) Others believed that his brother Arthur Lee was "Cincinnatus."

**281. Thomas Tudor Tucker to St. George Tucker
Philadelphia, 21 November (excerpts)¹**

The Accident of meeting with Colo. Grayson furnishes me an Opportunity of informing you that I this day arrived here from Charleston on my way to New York. . . . This seems to be a very critical Period of American Politics, & I must confess myself extremely anxious about the Event. The grand Question is before us that must decide the Happiness of Millions of Generations, & yet it seems as if we were scarcely left at Liberty to give an impartial Vote upon it. How inconsistent, how *irrational* a Being is Man! How strange the Rage of popular Enthusiasm! We scruple to touch the fairest Fruit whose Qualities are unknown to us, yet we greedily swallow, without a Moment's Thought, what may nourish poison not ourselves only but our Posterity for-ever. I confess I had my Fears from the very Beginning of this Business, but a kind of cowardly Deference to the general Opinion occasion'd them for a while to subside. They are now revived & I begin again to be in doubt whether we have lavish'd the Blood & Substance of our Country for a good or bad Purpose. I have not been at leisure to study the proposed Scheme of Government. At first View it pleased me in most of it's Parts, but a little Consideration presented to me Objections, which I cannot get over, & they multiply upon me the more I think of it. I may be wrong in my Apprehensions, but I have seen so many Instances of general Infatuation in Support of Measures which have turn'd out to be grossly erroneous, that I dare not longer look for Truth in the Opinions even of the most discerning. Such a Variety of Circumstances conspire to warp the Judgment, that very few are left at Liberty to use their own Reason. This is so extensive a Subject that little can be said upon it in the Bounds of a Letter. The proposed Constitution seems to me replete with Danger & I dread it's Consequences. Let me know your Opinion & what is likely to be the Decision of your State upon it, for she is a large Limb of the Confederation & so situated as to be able to disjoint the whole Business. For my Part, I shall by my present Appointment be every way shut out from a Voice in the matter. I cannot say what our State will do. Our Legislature does not meet until January, which will afford some time for the Glare of Novelty to go off. In Charleston most People are pleased, which I cannot wonder at, as I was myself dazzled with it at first View.

1. RC, Tucker-Coleman Papers, Swem Library, William and Mary College. Thomas Tudor Tucker (1745-1828), a Charleston physician and brother of St. George Tucker, was on his way to represent South Carolina in Congress. He served in the U.S. House of Representatives from 1789 to 1793 and was Treasurer of the United States from 1801 until his death.

282. Thomas B. Wait to George Thatcher
Portland, 22 November¹

My dear friend-

12 oClock-midnight.-

Your Letter of the 12th receiv'd yesterday-Agreeably to your request I have enclos'd the Cumberland Gazettes.-You will observe I have commenced hostilities against the proposed National Constitution-not because I condemn it "*by the lump*"-but only in part.-Perhaps most of the evils I see, or think I see, might be remedied by a *Bill of Rights*.-Now do not answer this as your Brother Wilson did the seceding members of Pennsylvania²-some of his observations were very good-and some, in my opinion, were very good for nothing.-

You will tell me, perhaps, that the rights of each individual are secured in the Bill prefixed to the several state Constitutions-so they are:-But this is not what I am contending for-it is the right of sovereignty in the States (or so much of sovereignty as shall be thought best for them to retain) that I am anxious to preserve:-this will [- - -] secure them from the encroachments of *Almighty* President and Congress.-

I consider the several states to stand in ~~the same~~ a similar relation to the Nation, and its Constitution-as do individuals to a state and its Constitution-the former, have certain rights, as well as the latter, that ought to be secured to them-otherwise State sovereignty will be but a name-the whole will be "*melted down*" into one nation; and then God have mercy on us-our liberties are lost.-The vast Continent of America cannot be long subject to a Democracy, if consolidated into one Government-you might as well attempt to rule Hell by Prayer.

Mr. Adams³ makes mention of a Republic of ~~but~~ thirty miles square, that on account of a difference of interest to preserve its liberties, was obliged to divide itself into two sovereign and independent States;-He also mentions another of but seventeen miles square, that, for the same reasons, was obliged to divide itself in the same manner.-Now, allow this to be true, and then paint to yourself the precious figure that America, with its millions of square miles, would make under a democracy-But let us not trouble ourselves on this head-for, should state sovereignty disappear, my word for it, there is no danger of a Democracy-no, no-King *George*, and the Convention over which he lately presided, has prepar'd something quite as different from this, as one could have wished for, or reasonably expected-

For God's sake write—I wish to have your opinion of the new Constitution—of New York—of Congress, and of the *great men* of which it is composed.—Your friend forever

[P.S.] *Promote me, if possible, from Printer to Post. Rider.*

1. RC, Chamberlain Collection, Thatcher Papers, MB. Wait (1762-1830) was the publisher and co-founder of the Portland *Cumberland Gazette*, the first newspaper in Maine. Thatcher (1754-1824), a Biddeford, Maine, lawyer, represented Massachusetts in Congress from 1787 to 1789 and was a U.S. Representative from 1789 to 1801.

2. See James Wilson's speech of 6 October, CC:134, and the address of the seceding Pennsylvania assemblymen, CC:125-A and RCS:Pa., 112-17.

3. Wait is apparently referring to the Swiss cantons of Appenzell and Unterwalden. See Adams, *Defence of the Constitutions*, I, Letters V-VI, 23-26. For a discussion of the *Defence*, see CC:16.

283 A-E. The Circulation of Antifederalist Material in Connecticut

From October to December 1787 Antifederalist literature was virtually excluded from all nine of Connecticut's newspapers. Only one original Antifederalist essay appeared in print. A few out-of-state items were reprinted, however, so that they could be answered by Connecticut Federalists. Federalists asserted that the newspapers were open to all parties, and in mid-December the two Hartford newspapers denied their partiality. They declared that Antifederalist pieces were not printed because none was submitted for publication, and, out of respect for the ample abilities of Connecticut authors, the two newspapers refused to reprint out-of-state writings (RCS:Conn., 492-93). This defense was labelled "a pompous libel" by Hugh Ledlie, a Hartford Antifederalist, who charged that "the presses in this State are open to them [Federalists], but evidently shut against all those that would dare & presume to write on the other side against the New Csn . . ." (to John Lamb, 15 January 1788, *ibid.*, 576-77).

To fill this void, New York Antifederalists began, sometime in early to mid-November, to export Antifederalist literature to Connecticut. Soon, the Antifederalist *New York Journal*, the *Letters from the Federal Farmer*, and broadside versions of Antifederalist essays were circulating, much to the indignation of Connecticut Federalists who decried this out-of-state interference.

283-A. *New Haven Gazette*, 22 November¹

A piece called the CENTINEL is circulating with great industry in this state, in the same covered, secret, and insidious manner as British proclamations, pardons, and manifestos were in the days of yore. The writer is said to be a certain *superannuated* George Bryan, of Pennsylvania.² He abounds in *scripture* quotations, and says General WASHINGTON is a Fool from habit and Dr. FRANKLIN a Fool from age and infirmity.³ These pieces are sent in large packets from a neighbouring state which is draining us of 35000l. annually by her impost. The Gentleman who is so kind as to favour Connecticut with these *modest* publications, is either *afraid* or *ashamed* to subscribe his name to the letters accompany-

ing them, but from the hand-writing it is conjectured that he enjoys a *comfortable* salary in the state alluded to, and has been so furious and violent against all federal measures for many years, that he foresees the ceasing and determination of that salary whenever our COMMERCE is properly regulated.⁴

283-B. *New York Daily Advertiser, 4 December*⁵

Nothing, says a correspondent, can equal the meanness of the Anti-Federal junto in America, but the low arts of our enemies during the war. Like them the Anti-Federal men are circulating hand-bills, fraught with sophistry, declamation and falshoods, to delude the people and excite jealousies. A few days ago a packet was sent from New-York to Connecticut, enclosed and addressed to a very respectable gentleman, with an anonymous letter, requesting him to circulate the hand-bills among the people. The hand-bills contained Anti-federal essays. The gentleman determined at first to commit them to the flames, as they deserved; but reflecting that the people are above the influence of such despicable arts, he sent them into the country. What a poor cause is that which its advocates are ashamed to avow and support, but by the dirty arts that would have disgraced the enemies of liberty, during the struggle for Independence! But such stratagems are useless in Connecticut. Every man has taken his side, and almost every man of information, on the side of the Constitution. On the other side are ranged a few weak people and the friends of Shays.

283-C. *New Haven Gazette, 13 December*⁶

ADVERTISEMENT.

Broke into the State of Connecticut on the Evening of the 12th Ultimo a large overgrown Creature marked *and branded* GENTINEL.-She appears to be of Pennsylvania extraction, and was lately in the keeping of J---L--- of New-York-from whence she escaped to this State-She is well pampered for market and at first was thought to be of great value, but upon more minute examination she is found to be a deception.-Cocks head and tail at first sight, but is soon discovered to be lame in her *four* feet-Nine hundred pounds (her late master's salary under the present constitution) written in small letters on her left hip, the hip which eminent farmers conjecture will soon be put out of joint. She has a large blaze in her forehead, in which is written in capitals, FRIENDS, COUNTRYMEN and FELLOW-CITIZENS-She was considerably *galled* and *fretted* before she left Pennsylvania, by the lash of Mr. Wilson,⁷ which caused her to quit the place of her nativity.-She is well enough *spread* for the people of this state, and they do not wish her to be *spread* any more, and

therefore if her original proprietor or her late protector will take her away and pay charges, no questions will be asked; if not before the *first Thursday in January* next, she will be reshipped to New-York to pay *Duties* as we are determined not to winter her.

December 7, 1787.

283-D. *Jeremiah Wadsworth to Henry Knox*
Hartford, 12 December (excerpt)⁸

. . . our antifederals are busy but will be distanced—tho aided by your devils in N Y & Pensa. from whence they daily receive pamphlets & news papers full of Wrath Slander & evil Speeking. . . .

283-E. *Jeremiah Wadsworth to Rufus King*
Hartford, 16 December (excerpt)⁹

. . . a Pamphlet is circulating here—Observations &c Signed ye Federal Farmer¹⁰—written with Art & tho by no means unanswerable it is calculated to do much harm—it came from New York under cover to Wrong head¹¹ & Mitchel & to all others supposed to be against the constitution—you will wonder to hear Mitchell named you may remember he was against the Convention—but he is right now as far as his popular *itch* will let him be he will Vote right¹²—notwithstanding all the Vol-umns sent in here from New York & circulated with industry we shall have a large majority. . . .

1. Reprints, in whole or in part, by 24 December (14): N.H. (2), Mass. (3), Conn. (3), N.Y. (3), Pa. (1), S.C. (2).

2. "Centinel" was actually Samuel Bryan, George Bryan's son (CC:133).

3. See "Centinel" I (CC:133).

4. On 17 December the Hartford *American Mercury* reported that "A gentleman in this City received a packet last Saturday evening, containing a number of hand-bills, against the new Constitution. The person who was kind enough to send them, has been careful to conceal his name—it is however, conjectured that they were forwarded by a LAMB, or rather a Wolf in Sheep's cloathing" (reprinted: *Albany Gazette*, 3 January 1788).

5. Reprints by 18 January 1788 (5): N.H. (2), Mass. (1), N.Y. (2). On 5 December, the day after the *Advertiser* printed this item, it reprinted the *New Haven Gazette* paragraph of 22 November (CC:283-A) with this prefatory remark: "Mr. Childs, The enclosed (from the Connecticut Magazine) probably will answer as an illustration to a paragraph in your paper of this day. By inserting it, you will oblige An OLD CUSTOMER. Dec. 4th."

6. Reprints by 10 January 1788 (12): N.H. (1), Mass. (1), R.I. (1), Conn. (1), N.Y. (4), Pa. (3), S.C. (1). On 26 December "A CUSTOMER" requested the printer of the Poughkeepsie *Country Journal*: "M. POWER, Please to insert the following Advertisement from the New-Haven Gazette in your next paper—it is an entertaining burlesque on a most detestable performance, and which has been circulated in this State no less than in Connecticut; and for the same gracious purpose of poisoning and inflaming the passions of the people."

On 27 December the publisher of the Philadelphia *Independent Gazetteer* reprinted the "Advertisement" at the request of "A Constant Reader." The following paragraph was

inserted at the end of the item: “(The advocates of the new system of government must be very much exhausted in point of argument indeed, when they have recourse to such wretched abuse as is contained in the above *advertisement*. Unfortunately for this horrid scribbler, the gentleman, at whom he has levelled his scurrility and low ribaldry, is held in the highest estimation by his fellow-citizens for his honor, integrity, and unshaken attachment to the cause of liberty—And the name of the patriotic LAMB of New-York, ‘will be sweet in the mouths’ of a grateful and applauding country—when those of his infamous political adversaries,—the *upstarts and mushrooms* of an hour,—the *totos* and *major tiffanies*—the *time-serving* tools, the *Phocians and Publiuses* of our day,—‘will stink in the very nostrils of posterity.’)” This paragraph was reprinted in the *New York Journal* on 7 January 1788. The phrase, “the *Phocians and Publiuses* of our day,” was probably an allusion to Alexander Hamilton who used both pseudonyms.

7. For James Wilson’s speech of 6 October, see CC:134.

8. RC, Knox Papers, MHi. On 23 December Wadsworth again wrote Knox that “our antifederalists—supported by the Scriblers & babblers of New York are holding up their Heads. . . . every thing that is written against the constitution in New York is forwarded under Cover to our Wrong Heads . . .” (RCS:Conn., 501). Connecticut Federalists labelled their opponents “wrongheads.”

9. RC, King Papers, NHi. Printed: RCS:Conn., 496–97.

10. CC:242.

11. “Wronghead” is a reference to James Wadsworth (1730–1817), the state comptroller who voted against ratification of the Constitution in the Connecticut Convention in January 1788.

12. Stephen Mix Mitchell (1743–1835), a Wethersfield lawyer and a Connecticut delegate to Congress, had voted against the congressional resolution of 21 February 1787 calling the Constitutional Convention (RCS:Conn., 347). He voted to ratify the Constitution in the Connecticut Convention.

284. A Countryman II

New Haven Gazette, 22 November¹

To the PEOPLE of Connecticut.

It is fortunate that you have been but little distressed with that torrent of impertinence and folly, with which the newspaper politicians have overwhelmed many parts of our country.

It is enough that you should have heard, that one party has seriously urged, that we should adopt the *New Constitution* because it has been approved by *Washington* and *Franklin*: and the other, with all the solemnity of apostolic address to *Men, Brethren, Fathers, Friends and Countrymen*, have urged that we should reject, as dangerous, every clause thereof, because that *Washington* is more used to command as a soldier, than to reason as a politician—*Franklin* is *old*²—others are *young*—and *Wilson* is *haughty*.³ You are too well informed to decide by the opinion of others, and too independent to need a caution against undue influence.

Of a very different nature, tho’ only one degree better than the other reasoning, is all that sublimity of *nonsense* and *alarm*, that has been thundered against it in every shape of *metaphoric terror*, on the subject of a *bill of rights*, the *liberty of the press*, *rights of conscience*, *rights of taxation* and

election, trials in the vicinity, freedom of speech, trial by jury, and a standing army. These last are undoubtedly important points, much too important to depend on mere paper protection. For, guard such privileges by the strongest expressions, still if you leave the legislative and executive power in the hands of those who are or may be disposed to deprive you of them—you are but slaves. Make an absolute monarch—give him the supreme authority, and guard as much as you will by bills of right, your liberty of the press, and trial by jury;—he will find means either to take them from you, or to render them useless.

The only real security that you can have for all your important rights must be in the nature of your government. If you suffer any man to govern you who is not strongly interested in supporting your privileges, you will certainly lose them. If you are about to trust your liberties with people whom it is necessary to bind by stipulation, that they shall not keep a standing army, your stipulation is not worth even the trouble of writing. No bill of rights ever yet bound the supreme power longer than the *honey moon* of a new married couple, unless the *rulers were interested* in preserving the rights; and in that case they have always been ready enough to declare the rights, and to preserve them when they were declared.—The famous English *Magna Charta* is but an act of parliament, which every subsequent parliament has had just as much constitutional power to repeal and annul, as the parliament which made it had to pass it at first. But the security of the nation has always been, that their government was so formed, that at least *one branch* of their legislature must be strongly interested to preserve the rights of the nation.

You have a bill of rights in Connecticut (i.e.) your legislature many years since enacted that the subjects of this state should enjoy certain privileges.⁴ Every assembly since that time, could, by the same authority, enact that the subjects should enjoy none of those privileges; and the only reason that it has not long since been so enacted, is that your legislature were as strongly interested in preserving those rights as any of the subjects; and this is your only security that it shall not be so enacted at the next session of assembly: and it is security enough.

Your General Assembly under your present constitution are supreme. They may keep troops on foot in the most profound peace, if they think proper. They have heretofore abridged the trial by jury in some causes, and they can again in all. They can restrain the press, and may lay the most burdensome taxes if they please, and who can forbid? But still the people are perfectly safe that not one of these events shall take place so long as the members of the General assembly are as much interested, and interested in the same manner as the other subjects.

On examining the new proposed constitution, there can not be a question, but that there is authority enough lodged in the proposed federal Congress, if abused, to do the greatest injury. And it is perfectly idle to object to it, that there is no bill of rights, or to propose to add to it a provision that a trial by jury shall in no case be omitted, or to patch it up by adding a stipulation in favor of the press, or to guard it by removing the paltry objection to the right of Congress to regulate the time and manner of elections.

If you can not prove by the best of all evidence, viz. by the *interest of the rulers*, that this authority will not be abused, or at least that those powers are not more likely to be abused by the Congress, than by those who now have the same powers, you must by no means adopt the constitution:—No, not with all the bills of rights and all the stipulations in favour of the people that can be made.

But if the members of Congress are to be interested just as you and I are, and just as the members of our present legislatures are interested, we shall be just as safe, with even supreme power, (if that were granted) in Congress, as in the General Assembly. If the members of Congress can take no improper step which will not affect them as much as it does us, we need not apprehend that they will usurp authorities not given them to injure that society of which they are a part.

The sole question, (so far as any apprehension of tyranny and oppression is concerned) ought to be, how are Congress formed? how far are the members interested to preserve your rights? how far have you a controul over them?—Decide this, and then all the questions about their power may be dismissed for the amusement of those politicians whose business it is to catch flies, or may occasionally furnish subjects for *George Bryan's POMPOSITY*,⁵ or the declamations of *Cato—An Old Whig—Son of Liberty—Brutus—Brutus junior—An Officer of the Continental Army*,—the more contemptible *Timoleon*⁶—and the residue of that rabble of writers.⁷

1. Reprinted: *New York Journal*, 3 December; *New Jersey Journal*, 5 December; *Pennsylvania Gazette*, 26 December; *Massachusetts Gazette*, 11 January 1788. (See also note 7 below.) For the authorship and circulation of "A Countryman," see CC:261.

2. See "Centinel" I (CC:133).

3. For attacks upon James Wilson, see "Centinel" II (CC:190) and "An Officer of the Late Continental Army" (CC:231 and RCS:Pa., 210-16).

4. See "An Act containing an Abstract and Declaration of the Rights and Privileges of the People of this State, and securing the same" (Mfm:Conn. 2).

5. George Bryan was thought to be the author of the "Centinel" essays (CC:133).

6. None of the Antifederalist writings listed here was reprinted in Connecticut before "A Countryman" II appeared on 22 November. All of them, however, were printed or reprinted in New York City and were probably circulated in Connecticut by New York Antifederalists. (See CC:283.)

7. This paragraph was reprinted in the *New Hampshire Spy* on 1 January 1788.

285. Publius: The Federalist 10 New York Daily Advertiser, 22 November

This essay was written by James Madison who had been asked to join Alexander Hamilton and John Jay in writing *The Federalist* some time from early to mid-November. At about the same time Jay became ill and was unable to continue his contributions, thereby leaving the work to the other two men.

The Federalist 10, Madison's first contribution, examined the nature of man and society. Madison believed that society was divided into "clashing interests" or factions and that the best kind of government was an extended republic containing a multiplicity of interests which would balance one another. He concluded that the new Constitution created such a government.

Madison had previously developed these ideas in an unpublished essay entitled "Vices of the Political System," which he had written earlier in the year (Rutland, *Madison*, IX, 345-58). The principal influence upon this essay was the work of Scottish philosopher David Hume. Madison elaborated upon and refined his ideas about the benefits of an extended republic in speeches delivered in the Constitutional Convention on 6 and 26 June and in a letter of 24 October to Thomas Jefferson (Farrand, I, 134-36, 421-23; CC:187).

The Federalist 10 was reprinted in the *New York Packet*, 23 November; *New York Independent Journal*, 24 November; *Pennsylvania Gazette*, 2 January 1788; *Hudson Weekly Gazette*, 10 January; *Lansingburgh Northern Centinel*, 15 January; and *Albany Gazette*, 17 January. Although it received no special attention from contemporaries, *The Federalist* 10 has been singled out by modern scholars. Among the most useful works on the subject are Douglass Adair, "That Politics May be Reduced to a Science": David Hume, James Madison, and the Tenth Federalist," *Huntington Library Quarterly*, XX (1956-57), 343-60; Adair, "The Tenth Federalist Revisited," *William and Mary Quarterly*, 3rd series, VIII (1951), 48-67; and Ralph L. Ketcham, "Notes on James Madison's Sources for the Tenth Federalist Paper," *Midwest Journal of Political Science*, I (1957), 20-25.

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

The FEDERALIST. No. X.

To the People of the State of New-York.

Among the numerous advantages promised by a well constructed Union, none deserves to be more accurately developed than its tendency to break and control the violence of faction. The friend of popular governments, never finds himself so much alarmed for their character and fate, as when he contemplates their propensity to this dangerous vice. He will not fail therefore to set a due value on any plan which, without violating the principles to which he is attached, provides a proper cure for it. The instability, injustice and confusion introduced into the public councils, have in truth been the mortal diseases under which popular governments have every where perished; as they continue to be the favorite and fruitful topics from which the adversaries to liberty derive their most specious declamations. The valuable improvements made by the American Constitutions on the popular models, both ancient and modern, cannot certainly be too much admired; but it

would be an unwarrantable partiality, to contend that they have as effectually obviated the danger on this side as was wished and expected. Complaints are every where heard from our most considerate and virtuous citizens, equally the friends of public and private faith, and of public and personal liberty; that our governments are too unstable; that the public good is disregarded in the conflicts of rival parties; and that measures are too often decided, not according to the rules of justice, and the rights of the minor party; but by the superior force of an interested and over-bearing majority. However anxiously we may wish that these complaints had no foundation, the evidence of known facts will not permit us to deny that they are in some degree true. It will be found indeed, on a candid review of our situation, that some of the distresses under which we labor, have been erroneously charged on the operation of our governments; but it will be found, at the same time, that other causes will not alone account for many of our heaviest misfortunes; and particularly, for that prevailing and increasing distrust of public engagements, and alarm for private rights, which are echoed from one end of the continent to the other. These must be chiefly, if not wholly, effects of the unsteadiness and injustice, with which a factious spirit has tainted our public administration.

By a faction I understand a number of citizens, whether amounting to a majority or minority of the whole, who are united and actuated by some common impulse of passion, or of interest, adverse to the rights of other citizens, or to the permanent and aggregate interests of the community.

There are two methods of curing the mischiefs of faction: the one, by removing its causes; the other, by controlling its effects.

There are again two methods of removing the causes of faction: the one by destroying the liberty which is essential to its existence; the other, by giving to every citizen the same opinions, the same passions, and the same interests.

It could never be more truly said than of the first remedy, that it is worse than the disease. Liberty is to faction, what air is to fire, an aliment without which it instantly expires. But it could not be a less folly to abolish liberty, which is essential to political life, because it nourishes faction, than it would be to wish the annihilation of air, which is essential to animal life, because it imparts to fire its destructive agency.

The second expedient is as impracticable, as the first would be unwise. As long as the reason of man continues fallible, and he is at liberty to exercise it, different opinions will be formed. As long as the connection subsists between his reason and his self-love, his opinions and his passions will have a reciprocal influence on each other; and the for-

mer will be objects to which the latter will attach themselves. The diversity in the faculties of men from which the rights of property originate, is not less an insuperable obstacle to a uniformity of interests. The protection of these faculties is the first object of Government. From the protection of different and unequal faculties of acquiring property, the possession of different degrees and kinds of property immediately results: and from the influence of these on the sentiments and views of the respective proprietors, ensues a division of the society into different interests and parties.

The latent causes of faction are thus sown in the nature of man; and we see them every where brought into different degrees of activity, according to the different circumstances of civil society. A zeal for different opinions concerning religion, concerning Government, and many other points, as well of speculation as of practice; an attachment to different leaders ambitiously contending for pre-eminence and power; or to persons of other descriptions whose fortunes have been interesting to the human passions, have in turn divided mankind into parties, inflamed them with mutual animosity, and rendered them much more disposed to vex and oppress each other, than to co-operate for their common good. So strong is this propensity of mankind to fall into mutual animosities, that where no substantial occasion presents itself, the most frivolous and fanciful distinctions have been sufficient to kindle their unfriendly passions, and excite their most violent conflicts. But the most common and durable source of factions, has been the various and unequal distribution of property. Those who hold, and those who are without property, have ever formed distinct interests in society. Those who are creditors, and those who are debtors, fall under a like discrimination. A landed interest, a manufacturing interest, a mercantile interest, a monied interest, with many lesser interests, grow up of necessity in civilized nations, and divide them into different classes, actuated by different sentiments and views. The regulation of these various and interfering interests forms the principal task of modern Legislation, and involves the spirit of party and faction in the necessary and ordinary operations of Government.

No man is allowed to be a judge in his own cause; because his interest would certainly bias his judgment, and, not improbably, corrupt his integrity. With equal, nay with greater reason, a body of men, are unfit to be both judges and parties, at the same time; yet, what are many of the most important acts of legislation, but so many judicial determinations, not indeed concerning the rights of single persons, but concerning the rights of large bodies of citizens; and what are the different classes of legislators, but advocates and parties to the causes which they

determine? Is a law proposed concerning private debts? It is a question to which the creditors are parties on one side, and the debtors on the other. Justice ought to hold the balance between them. Yet the parties are and must be themselves the judges; and the most numerous party, or, in other words, the most powerful faction must be expected to prevail. Shall domestic manufactures be encouraged, and in what degree, by restrictions on foreign manufactures? are questions which would be differently decided by the landed and the manufacturing classes; and probably by neither, with a sole regard to justice and the public good. The apportionment of taxes on the various descriptions of property, is an act which seems to require the most exact impartiality; yet there is perhaps no legislative act in which greater opportunity and temptation are given to a predominant party, to trample on the rules of justice. Every shilling with which they over-burden the inferior number, is a shilling saved to their own pockets.

It is in vain to say, that enlightened statesmen will be able to adjust these clashing interests, and render them all subservient to the public good. Enlightened statesmen will not always be at the helm: Nor, in many cases, can such an adjustment be made at all, without taking into view indirect and remote considerations, which will rarely prevail over the immediate interest which one party may find in disregarding the rights of another, or the good of the whole.

The inference to which we are brought, is, that the *causes* of faction cannot be removed; and that relief is only to be sought in the means of controlling its *effects*.

If a faction consists of less than a majority, relief is supplied by the republican principle, which enables the majority to defeat its sinister views by regular vote: It may clog the administration, it may convulse the society; but it will be unable to execute and mask its violence under the forms of the Constitution. When a majority is included in a faction, the form of popular government on the other hand enables it to sacrifice to its ruling passion or interest, both the public good and the rights of other citizens. To secure the public good, and private rights, against the danger of such a faction, and at the same time to preserve the spirit and the form of popular government, is then the great object to which our enquiries are directed: Let me add that it is the great desideratum, by which alone this form of government can be rescued from the opprobrium under which it has so long labored, and be recommended to the esteem and adoption of mankind.

By what means is this object attainable? Evidently by one of two only. Either the existence of the same passion or interest in a majority at the same time, must be prevented; or the majority, having such co-existent

passion or interest, must be rendered, by their number and local situation, unable to concert and carry into effect schemes of oppression. If the impulse and the opportunity be suffered to coincide, we well know that neither moral nor religious motives can be relied on as an adequate control. They are not found to be such on the injustice and violence of individuals, and lose their efficacy in proportion to the number combined together; that is, in proportion as their efficacy becomes needful.

From this view of the subject, it may be concluded, that a pure Democracy, by which I mean, a Society, consisting of a small number of citizens, who assemble and administer the Government in person, can admit of no cure for the mischiefs of faction. A common passion or interest will, in almost every case, be felt by a majority of the whole; a communication and concert results from the form of Government itself; and there is nothing to check the inducements to sacrifice the weaker party, or an obnoxious individual. Hence it is, that such Democracies have ever been spectacles of turbulence and contention; have ever been found incompatible with personal security, or the rights of property; and have in general been as short in their lives, as they have been violent in their deaths. Theoretic politicians, who have patronized this species of Government, have erroneously supposed, that by reducing mankind to a perfect equality in their political rights, they would, at the same time, be perfectly equalized and assimilated in their possessions, their opinions, and their passions.

A Republic, by which I mean a Government in which the scheme of representation takes place, opens a different prospect, and promises the cure for which we are seeking. Let us examine the points in which it varies from pure Democracy, and we shall comprehend both the nature of the cure, and the efficacy which it must derive from the Union.

The two great points of difference between a Democracy and a Republic are, first, the delegation of the Government, in the latter, to a small number of citizens elected by the rest: secondly, the greater number of citizens, and greater sphere of country, over which the latter may be extended.

The effect of the first difference is, on the one hand to refine and enlarge the public views, by passing them through the medium of a chosen body of citizens, whose wisdom may best discern the true interest of their country, and whose patriotism and love of justice, will be least likely to sacrifice it to temporary or partial considerations. Under such a regulation, it may well happen that the public voice pronounced by the representatives of the people, will be more consonant to the public good, than if pronounced by the people themselves convened for the purpose. On the other hand, the effect may be inverted. Men of factious tem-

pers, of local prejudices, or of sinister designs, may by intrigue, by corruption or by other means, first obtain the suffrages, and then betray the interests of the people. The question resulting is, whether small or extensive Republics are most favorable to the election of proper guardians of the public weal; and it is clearly decided in favor of the latter by two obvious considerations.

In the first place it is to be remarked that however small the Republic may be, the Representatives must be raised to a certain number, in order to guard against the cabals of a few; and that however large it may be, they must be limited to a certain number, in order to guard against the confusion of a multitude. Hence the number of Representatives in the two cases, not being in proportion to that of the Constituents, and being proportionally greatest in the small Republic, it follows, that if the proportion of fit characters, be not less, in the large than in the small Republic, the former will present a greater option, and consequently a greater probability of a fit choice.

In the next place, as each Representative will be chosen by a greater number of citizens in the large than in the small Republic, it will be more difficult for unworthy candidates to practise with success the vicious arts, by which elections are too often carried; and the suffrages of the people being more free, will be more likely to centre on men who possess the most attractive merit, and the most diffusive and established characters.

It must be confessed, that in this, as in most other cases, there is a mean, on both sides of which inconveniencies will be found to lie. By enlarging too much the number of electors, you render the representative too little acquainted with all their local circumstances and lesser interests; as by reducing it too much, you render him unduly attached to these, and too little fit to comprehend and pursue great and national objects. The Federal Constitution forms a happy combination in this respect; the great and aggregate interests being referred to the national, the local and particular, to the state legislatures.

The other point of difference is, the greater number of citizens and extent of territory which may be brought within the compass of Republican, than of Democratic Government; and it is this circumstance principally which renders factious combinations less to be dreaded in the former, than in the latter. The smaller the society, the fewer probably will be the distinct parties and interests composing it; the fewer the distinct parties and interests, the more frequently will a majority be found of the same party; and the smaller the number of individuals composing a majority, and the smaller the compass within which they are placed,

the more easily will they concert and execute their plans of oppression. Extend the sphere, and you take in a greater variety of parties and interests; you make it less probable that a majority of the whole will have a common motive to invade the rights of other citizens; or if such a common motive exists, it will be more difficult for all who feel it to discover their own strength, and to act in unison with each other. Besides other impediments, it may be remarked, that where there is a consciousness of unjust or dishonorable purposes, communication is always checked by distrust, in proportion to the number whose concurrence is necessary.

Hence it clearly appears, that the same advantage, which a Republic has over a Democracy, in controlling the effects of faction, is enjoyed by a large over a small Republic—is enjoyed by the Union over the States composing it. Does this advantage consist in the substitution of Representatives, whose enlightened views and virtuous sentiments render them superior to local prejudices, and to schemes of injustice? It will not be denied, that the Representation of the Union will be most likely to possess these requisite endowments. Does it consist in the greater security afforded by a greater variety of parties, against the event of any one party being able to outnumber and oppress the rest? In an equal degree does the increased variety of parties, comprised within the Union, increase this security. Does it, in fine, consist in the greater obstacles opposed to the concert and accomplishment of the secret wishes of an unjust and interested majority? Here, again, the extent of the Union gives it the most palpable advantage.

The influence of factious leaders may kindle a flame within their particular States, but will be unable to spread a general conflagration through the other States: a religious sect, may degenerate into a political faction in a part of the Confederacy; but the variety of sects dispersed over the entire face of it, must secure the national Councils against any danger from that source: a rage for paper money, for an abolition of debts, for an equal division of property, or for any other improper or wicked project, will be less apt to pervade the whole body of the Union, than a particular member of it; in the same proportion as such a malady is more likely to taint a particular county or district, than an entire State.

In the extent and proper structure of the Union, therefore, we behold a Republican remedy for the diseases most incident to Republican Government. And according to the degree of pleasure and pride, we feel in being Republicans, ought to be our zeal in cherishing the spirit, and supporting the character of Federalists.

286. Cato V New York Journal, 22 November

On 19 November the printer announced that "Cato" V and "Cincinnatus" IV were "reserved for next Thursday's Paper." The *New York Journal* had just become a daily newspaper on 19 November and the printer wanted to continue to publish the "Cato" and "Cincinnatus" essays on Thursdays because that day's newspaper had "*a more general Circulation in the Country*" (CC:Vol. 1, xxxviii). "Cato" V was reprinted in the *New York Daily Advertiser* on 24 and 26 November and in the *Albany Gazette* on 6 December. For responses to "Cato" V, see "Americanus" V (John Stevens, Jr.), *New York Daily Advertiser*, 12 December.

For a discussion of the authorship, circulation, and impact of "Cato," see CC:103.

To the CITIZENS of the State of NEW-YORK.

In my last number¹ I endeavored to prove that the language of the article relative to the establishment of the executive of this new government was vague and inexplicit, that the great powers of the President, connected with his duration in office would lead to oppression and ruin. That he would be governed by favorites and flatterers, or that a dangerous council would be collected from the great officers of state;—that the ten miles square, if the remarks of one of the wisest men, drawn from the experience of mankind, may be credited, would be the asylum of the base, idle, avaricious and ambitious, and that the court would possess a language and manners different from yours; that a vice-president is as unnecessary, as he is dangerous in his influence—that the president cannot represent you, because he is not of your own immediate choice, that if you adopt this government, you will incline to an arbitrary and odious aristocracy or monarchy—that the president possessed of the power, given him by this frame of government differs but very immaterially from the establishment of monarchy in Great-Britain, and I warned you to beware of the fallacious resemblance that is held out to you by the advocates of this new system between it and your own state governments.

And here I cannot help remarking, that inexplicitness seems to pervade this whole political fabric: certainty in political compacts which Mr. Coke *calls the mother and nurse of repose and quietness*,² the want of which induced men to engage in political society, has ever been held by a wise and free people as essential to their security; as on the one hand it fixes barriers which the ambitious and tyrannically disposed magistrate dare not overleap, and on the other, becomes a wall of safety to the community—otherwise stipulations between the governors and governed are nugatory; and you might as well deposit the important powers of legislation and execution in one or a few and permit them to govern according to their disposition and will; but the world is too full

of examples, which prove that *to live by one man's will became the cause of all men's misery*.³ Before the existence of express political compacts it was reasonably implied that the magistrate should govern with wisdom and justice, but mere implication was too feeble to restrain the unbridled ambition of a bad man, or afford security against negligence, cruelty, or any other defect of mind. It is alledged that the opinions and manners of the people of America, are capable to resist and prevent an extension of prerogative or oppression; but you must recollect that opinion and manners are mutable, and may not always be a permanent obstruction against the encroachments of government; that the progress of a commercial society begets luxury, the parent of inequality, the foe to virtue, and the enemy to restraint; and that ambition and voluptuousness aided by flattery, will teach magistrates, where limits are not explicitly fixed to have separate and distinct interests from the people, besides it will not be denied that government assimilates the manners and opinions of the community to it. Therefore, a general presumption that rulers will govern well is not a sufficient security.—You are then under a sacred obligation to provide for the safety of your posterity, and would you now basely desert their interests, when by a small share of prudence you may transmit to them a beautiful political patrimony, which will prevent the necessity of their travelling through seas of blood to obtain that, which your wisdom might have secured:—It is a duty you owe likewise to your own reputation, for you have a great name to lose; you are characterised as cautious, prudent and jealous in politics; whence is it therefore, that you are about to precipitate yourselves into a sea of uncertainty, and adopt a system so vague, and which has discarded so many of your valuable rights:—Is it because you do not believe that an American can be a tyrant? If this be the case you rest on a weak basis, Americans are like other men in similar situations, when the manners and opinions of the community are changed by the causes I mentioned before, and your political compact inexplicit, your posterity will find that great power connected with ambition, luxury, and flattery, will as readily produce a Caesar, Caligula, Nero, and Domitian in America, as the same causes did in the Roman empire.

But the next thing to be considered in conformity to my plan, is the first article of this new government, which comprises the erection of the house of representatives and senate, and prescribes their various powers and objects of legislation. The most general objections to the first article, are that bi-ennial elections for representatives are a departure from the safe democratical principles of annual ones—that the number of representatives are too few; that the apportionment and principles of increase are unjust; that no attention has been paid to either the num-

bers or property in each state in forming the senate; that the mode in which they are appointed and their duration, will lead to the establishment of an aristocracy; that the senate and president are improperly connected, both as to appointments, and the making of treaties, which are to become the supreme law of the land; that the judicial in some measure, to wit, as to the trial of impeachments is placed in the senate a branch of the legislative, and some times a branch of the executive: that Congress have the improper power of making or altering the regulations prescribed by the different legislatures, respecting the time, place, and manner of holding elections for representatives; and the time and manner of choosing senators; that standing armies may be established, and appropriation of money made for their support, for two years; that the militia of the most remote state may be marched into those states situated at the opposite extreme of this continent; that the slave trade, is to all intents and purposes permanently established; and a slavish capitation, or poll-tax, may at any time be levied—these are some of the many evils that will attend the adoption of this government.

But with respect to the first objection, it may be remarked that a well digested democracy has this advantage over all others, to wit, that it affords to many the opportunity to be advanced to the supreme command, and the honors they thereby enjoy fills them with a desire of rendering themselves worthy of them; hence this desire becomes part of their education, is matured in manhood, and produces an ardent affection for their country, and it is the opinion of the great Sidney, and Montesquieu that this is in a great measure produced by annual election of magistrates.⁴

If annual elections were to exist in this government, and learning and information to become more prevalent, you never will want men to execute whatever you could design—Sidney observes *that a well governed state is as fruitful to all good purposes as the seven headed serpent is said to have been in evil; when one head is cut off, many rise up in the place of it.* He remarks further, that *it was also thought, that free cities by frequent elections of magistrates became nurseries of great and able men, every man endeavoring to excel others, that he might be advanced to the honor he had no other title to, than what might arise from his merit, or reputation,*⁵ but the framers of this *perfect government*, as it is called, have departed from this democratical principle, and established bi-ennial elections, for the house of representatives, who are to be chosen by the people, and sextennial for the senate, who are to be chosen by the legislatures of the different states, and have given to the executive the unprecedented power of making temporary senators, in case of vacancies, by resignation or otherwise,⁶ and so far forth establishing a precedent for virtual representation (though in fact, their orig-

inal appointment is virtual) thereby influencing the choice of the legislatures, or if they should not be so complaisant as to conform to his appointment—offence will be given to the executive and the temporary members, will appear ridiculous by rejection; this temporary member, during his time of appointment, will of course act by a power derived from the executive, and for, and under his immediate influence.

It is a very important objection to this government, that the representation consists of so few; too few to resist the influence of corruption, and the temptation to treachery, against which all governments ought to take precautions—how guarded you have been on this head, in your own state constitution, and yet the number of senators and representatives proposed for this vast continent, does not equal those of your own state; how great the disparity, if you compare them with the aggregate numbers in the United States. The history of representation in England, from which we have taken our model of legislation, 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 impossible, by the increase of numbers, the community was divided into districts, from each of which was sent such a number of deputies as was a complete representation of the various numbers and orders of citizens within them; but can it be asserted with truth, that six men can be a complete and full representation of the numbers and various orders of the people in this state? Another thing may be suggested against the small number of representatives is, that but few of you will have the chance of sharing even in this branch of the legislature; and that the choice will be confined to a very few; the more complete it is, the better will your interests be preserved, and the greater the opportunity you will have to participate in government, one of the principal securities of a free people; but this subject has been so ably and fully treated by a writer under the signature of Brutus,⁷ that I shall content myself with referring you to him thereon, reserving further observations on the other objections I have mentioned, for my future numbers.

1. *New York Journal*, 8 November (CC:240).

2. Edward Coke, *The Second Part of the Institutes of the Laws of England . . .* (2 vols., London, 1797), I, *A Proeme*. The second part of the *Institutes* was first published in 1642, eight years after Coke's death.

3. Richard Hooker, *Of the Lawes of Ecclesiasticall Politie, Books I-V, [1594]-1597* (Menton, England, 1969), Book I, chapter 10, p. 72. Book I was published in about 1594.

4. Algernon Sidney, *Discourses on Government* (3 vols., New York, 1805), II, chapter II, section XXI, 198; Montesquieu, *Spirit of Laws*, I, Book II, chapter III, 20. Sidney's *Discourses* were first published in 1698, fifteen years after his death.

5. *Discourses on Government*, II, chapter II, section XXIII, 217; section XXVIII, 321.

6. "Publius" charged that "Cato" had incorrectly assumed that the President would fill all vacancies in the U.S. Senate (*The Federalist* 67, *New York Packet*, 11 March 1788).

7. "Brutus" III, *New York Journal*, 15 November (CC:264).

287. Cincinnatus IV: To James Wilson, Esquire
New York Journal, 22 November

The printer received this essay by 15 November. Four days later he announced that it would be published on Thursday, 22 November. (See CC:286 headnote.) On 11 December the *Salem Mercury* reprinted paragraphs two through four. The excerpt was preceded by this statement: "Supposed to have been written by Richard Henry Lee, Esq. Delegate to Congress from the State of Virginia." This attribution was undoubtedly derived from an "Extract of a letter from Wilmington. . ." (CC:280), which the *Salem Mercury* reprinted immediately after the excerpt from "Cincinnatus" IV.

The Philadelphia *Freeman's Journal* reprinted all of "Cincinnatus" IV on 30 January 1788 with a prefatory statement by "L.M.": "Mr. BAILEY, Inclosed is the Fourth Number of Cincinnatus which you did not receive, owing to some mishap; it is no matter of surprise to me, that it was stopped." "L.M." is referring to "Centinel's" charge that the major Antifederalist essays from the *New York Journal*, such as "Brutus," "Cincinnatus," and "Cato," could not be reprinted in Philadelphia during the time that the Pennsylvania Convention met (20 November–15 December) because they had "miscarried in their conveyance." Federalist newspapers, however, did not miscarry ("Centinel" IX, XI, Philadelphia *Independent Gazetteer*, 8, 16 January).

For a discussion of the authorship, circulation, and impact of "Cincinnatus," see CC:222.

Sir, The public appear to me, sir, to be much indebted to you, for informing them; for what purpose a power was given by the proposed Constitution, of raising and supporting armies.—Some, indeed, might have suspected, that such a power, uncontroled by any declaration, that the military should always be subject to the civil power, might be intended for the purposes of ambition. Your declaration has removed all doubt. Every principle of policy, you say, would be subverted unless we kept up armies—for what—for our defence?—no,—to support declarations of war—to strike home, with dispatch and secrecy, before the enemy can be apprized of your intention. Upon the same principle a small army would be ridiculous. Nothing less than the Prussian number, about 200,000 men would embrace this salutary object. And as you now say—"no man that regards the dignity and safety of his country can deny the necessity of a military force."—You will next affirm, that no one, for the same reason, can deny the necessity of a large army. The safety of the country, we have already experienced to depend, upon the militia. Switzerland has often experienced the same. Why then, sir, should you be so very positive, that for this purpose a military force is necessary?—But for the dignity of the country, that is for the ambition of its rulers, armies I confess are necessary; and not less in number than other ambitious rulers maintain, by grinding the face of the people. For every thousand in these armies a million of dollars must be levied upon the

public, and such armies—raised and supported, would at once maintain the dignity of government, and ensure the submission of the people. We shall be as dignified as the Turks, and equally free.—The sole power of voting men, and money, is retained by the representative of the people in England. This is their shield and their defence against arbitrary power. Never has the King been able to obtain the extension of this vote beyond a year. But we are called upon, with all the solemnity of a constitutional act, to give it up for two years. And yet, sir, you talk of the controul and the restrictions which the new Constitution provides. There is, I confess, some dexterity in the negative terms in which this power is conceived—not more than two years. But what the Constitution permits, and what it grants are essentially the same. And since it seemed necessary to this almost all confiding Convention, to limit our confidence in this particular, the only rule that observation suggests is, that of England; where this confidence has never exceeded one year.

I come now, sir, to the most exceptionable part of the Constitution—the senate. In this, as in every other part, you are in the line of your profession, and on that ground assure your fellow citizens, that—“perhaps there never was a charge made with less reason, than that which predicts the institution of a baneful aristocracy in the Fœderal Senate.” And yet your conscience smote you, sir, at the beginning, and compelled you to prefix a—perhaps to this strange assertion. The senate, you say, branches into two characters—the one legislative and the other executive. This phraseology is quaint, and the position does not state the whole truth. I am very sorry, sir, to be so often obliged to reprehend the suppression of information at the moment that you stood forth to instruct your fellow citizens, in what they were supposed not to understand. In this character, you should have abandoned your professional line, and told them, not only the truth, but the whole truth. The whole truth then is, that the same body, called the senate, is vested with—legislative—executive—and judicial powers. The two first you acknowledge; the last is conveyed in these words, sec. 3d. The senate shall have the sole power to try all impeachments. On this point then we are to come to issue—whether a senate so constituted is likely to produce a baneful aristocracy, which will swallow up the democratic rights and liberties of the nation.

To judge on this question, it is proper to examine minutely into the constitution and powers of the senate; and we shall then see with what anxious and subtle cunning it is calculated for the proposed purpose. 1st. It is removed from the people, being chosen by the legislatures—and exactly in the ratio of their removal from the people, do aristocratic

principles constantly infect the minds of man. 2d. They endure, two thirds for four, and one-third for six years, and in proportion to the duration of power, the aristocratic exercise of it, and attempts to extend it, are invariably observed to increase. 3d. From the union of the executive with the legislative functions, they must necessarily be longer together, or rather constantly assembled; and in proportion to their continuance together, will they be able to form effectual schemes for extending their own power, and reducing that of the democratic branch. If any one would wish to see this more fully illustrated, let him turn to the history of the Decemviri in Rome. 4th. Their advice and consent being necessary to the appointment of all the great officers of state, both at home and abroad, will enable them to win over any opponents to their measures in the house of representatives, and give them the influence which, we see, accompanies this power in England; and which, from the nature of man, must follow it every where. 5th. The sole power of impeachment being vested in them, they have it in their power to controul the representative in this high democratic right; to screen from punishment, or rather from conviction, all high offenders, being their creatures, and to keep in awe all opponents to their power in high office. 6th. The union established between them and the vice president, who is made one of the corps, and will therefore be highly animated with the aristocratic spirit of it, furnishes them a powerful shield against popular suspicion and enquiry, he being the second man in the United States who stands highest in the confidence and estimation of the people. And lastly, the right of altering or amending money-bills, is a high additional power given them as a branch of the legislature, which their analogous branch, in the English parliament, could never obtain, because it has been guarded by the representatives of the people there, with the most strenuous sollicitude as one of the vital principles of democratic liberty.

Is a body so vested with means to soften & seduce—so armed with power to screen or to condemn—so fortified against suspicion and enquiry—so largely trusted with legislative powers—so independent of and removed from the people—so tempted to abuse and extend these powers—is this a body which freemen ought ever to create, or which freemen can ever endure? Or is it not a monster in the political creation, which we ought to regard with horror? Shall we thus forge our own fetters? Shall we set up the idol, before which we shall soon be obliged, however, reluctantly to bow? Shall we consent to see a proud aristocracy erect his domineering crest in triumph over our prostrate liberties?

But we shall yet see more clearly, how highly favored this senate has been, by taking a similar view of the representative body. This body is

the true representative of the democratic part of the system; the shield and defence of the people. This body should have weight from its members, and the high controul which it should alone possess. We can form no idea of the necessary number in this untried system, to give due weight to the democratic part, but from the example of England. Had it not been intended to humble this branch, it would have been fixed, at least, at their standard. We are to have one representative for every thirty thousand—they have nearly one for ten thousand souls. Their number is about six millions; their representatives five hundred and fifteen. When we are six millions, we shall have only two hundred representatives. In point of number therefore and the weight derived from it, the representative proposed by the constitution is remarkably feeble. It is farther weakened by the senate being allowed not only to reject, but to alter and amend money-bills. Its transcendent and incommunicable power of impeachment—that high source of its dignity and controul—in which alone the majesty of the people feels his sceptre, and bears aloft his fasces—is rendered ineffectual, by its being triable before its rival branch, the senate, the patron and prompter of the measures against which it is to sit in judgment. It is therefore most manifest, that from the very nature of the constitution the right of impeachment apparently given, is really rendered ineffectual. And this is contrived with so much art, that to discover it you must bring together various and distant parts of the constitution, or it will not strike the examiner, that the same body that advises the executive measures of government which are usually the subject of impeachment, are the sole judges on such impeachments. They must therefore be both party and judge, and must condemn those who have executed what they advised. Could such a monstrous absurdity have escaped men who were not determined, at all events, to vest all power in this aristocratic body? Is it not plain, that the senate is to be exalted by the humiliation of the democracy. A democracy which, thus bereft of its powers, and shorn of its strength; will stand a melancholy monument of popular impotence.

Hitherto I have examined your senate by its intrinsic and its comparative powers. Let us next examine, how far the principles of its constitution are compatible with what our own constitutions lay down, and what the best writers on the subject have determined to be essential to free and good government.

In every state constitution, with a very trifling exception in that of Massachusetts, the legislative and executive powers are vested in different and independent bodies.—Will any one believe, that it is because we are become wiser, that in twelve years we are to overthrow every system which reason and experience taught us was right. Or is it, that a few

men, forming a plan at Philadelphia subversive of all former principles, then posting to Congress, and passing it there, and next dispersing themselves in the several states to propagate their errors, and, if they can, get chosen into the state conventions; are actuated by motives of interest and bad ambition? I should be very unwilling to believe the latter, and yet it is utterly incomprehensible, how such a systematic violation of all that has been deemed wise and right, from which no other result can be expected, but the establishment of a baneful aristocracy, could have been recommended to a free and enlightened people.

“Lorsque dans la meme personne, says Montesquieu, ou dans le meme corps de magistrature, la puissance legislative est re-unie a la puissance executive; il n’y a point de liberte; parce qu’on peut craindre que le meme monarque, ou le meme Senat ne fasse des loix tyranniques, pour les executer tyranniquement.” “When the legislative and executive powers are united in the same person, or in the same corps, there can be no liberty. Because, it may be feared, that the same monarch or senate will make tyrannical laws, that they may execute them tyrannically.”¹ I am aware that this great man is speaking of a senate being the whole legislative; whereas the one before us is but a branch of the proposed legislature. But still the reason applies, inasmuch as the legislative power of the senate will enable it to negative all bills that are meant to controul the executive, and from being secure of preventing any abridgment, they can watch every pliant hour of the representative body to promote an enlargement of the executive powers. One thing at least is certain, that by making this branch of the legislature participant in the executive, you not only prevent the legislature from being a check upon the executive, but you inevitably prevent its being checked or controuled by the other branch.

To the authority of Montesquieu, I shall add that of Mr. de Lolme; whose disquisition on government, is allowed to be deep, solid, and ingenious.² “Il ne suffisoit pas, says he, d’oter aux legislatureurs l’execution des loix, par consequent, l’exemption qui en est la suite immediate; il falloit encore, leur oter ce qui eut produit les memes effects—l’espoir de jamais se l’attribuer—It is not only necessary to take from the legislature the executive power which would exempt them from the laws; but they should not have even a hope of being ever able to arrogate to themselves that power.” To remove this hope from their expectation, it would have been proper, not only to have previously laid down, in a declaration of rights, that these powers should be forever separate and incommunicable; but the frame of the proposed constitution, should have had that separation religiously in view, through all its parts. It is manifest this was not the object of its framers, but, that on the contrary

there is a studied mixture of them in the senate as necessary to erect it into that potent aristocracy which it must infallibly produce. In pursuit of this darling object, than which no greater calamity can be brought upon the people, another egregious error in constitutional principles is committed. I mean that of dividing the executive powers, between the senate and the president. Unless more harmony and less ambition should exist between these two executives than ever yet existed between men in power, or than can exist while human nature is as it is: this absurd division must be productive of constant contentions for the lead, must clog the execution of government to a mischievous, and sometimes to a disgraceful degree, and if they should unhappily harmonize in the same objects of ambition, their number and their combined power, would preclude all fear of that responsibility, which is one of the great securities of good, and restraints on bad governments. Upon these principles M. de Lolme has foreseen that “the effect of a division of the executive power is the establishment of absolute power in one of continual contention”; he therefore lays it down, as a general rule “pour q’un etat soit tranquille il faut que le pouvoir executif y soit rëunie”—for the tranquillity of the state it is necessary that the executive power should be in one.³ I will add, that this singlehood of the executive, is indispensably necessary to effective execution as well as to the responsibility and rectitude of him to whom it is entrusted.

By this time I hope it is evident from reason and authority, that in the constitution of the senate there is much cunning and little wisdom; that we have much to fear from it, and little to hope, and then it must necessarily produce a baneful aristocracy, by which the democratic rights of the people will be overwhelmed.

It was probably upon this principle that a member of the convention, of high and unexceeded reputation for wisdom and integrity, is said to have emphatically declared, that *he would sooner lose his right hand, than put his name to such a Constitution.*⁴

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

2. Jean Louis De Lolme, *The Constitution of England . . .* (London, 1816), Book II, chapter X, 281. *The Constitution of England* was first published in 1771.

3. *Ibid.*, Book II, chapter III, 221–22.

4. The reference is to George Mason, a Virginia delegate to the Constitutional Convention (CC:204).

288 A–C. Timothy Pickering and the Letters from the Federal Farmer, 24 November–24 December

On 24 November Charles Tillinghast, a New York Antifederalist, sent Timothy Pickering a copy of the *Letters from the Federal Farmer* (CC:242) and asked him for his opinion of the Constitution. Pickering, then serving as a Federalist dele-

gate to the Pennsylvania Convention, replied on 6 December that he would give Tillinghast his opinion as soon as he had the time to write a long letter. On 24 December, nine days after the Pennsylvania Convention adjourned, Pickering began a detailed criticism of the *Letters from the Federal Farmer*.

On 27 January 1788 Tillinghast sent a copy of Pickering's letter to Hugh Hughes, another New York Antifederalist. Tillinghast told Hughes that he believed Pickering wanted the critique published, but Tillinghast refused to do so. Tillinghast also declared that on this occasion Pickering showed "more *Temper* in this last letter, than he ordinarily does" (Hugh Hughes Papers, DLC).

Timothy Pickering (1745-1829) was adjutant general of the Continental Army, 1777-1778, and quartermaster general, 1780-1785. After the Revolution, he moved from Massachusetts to Pennsylvania and became a farmer and large landowner in Luzerne County. Pickering was a delegate to the Pennsylvania Convention, where he voted for ratification in December 1787. Tillinghast had been an assistant in the quartermaster general's office.

288-A. *Charles Tillinghast to Timothy Pickering*
*New York, 24 November*¹

Presuming on the many Proofs of Friendship and Confidence, with which you have been pleased to Honour me, I have taken the Liberty to enclose a Pamphlet lately published here, on the Constitution proposed by the late Convention from an attentive reading of which, and a serious Examination of the Constitution itself, I cannot but consider it as very dangerous to the liberties of the People of this Continent—I do not consider myself competent to a perfect Knowledge of the more intricate parts of Government, but as I conceive the one in Question to be deficient in the grand Essentials requisite for the Security of those Rights for which we have so ably and successfully contended with Great-Britain, I have concluded, and I hope not impertinently, to ask your sentiments on this momentous Business.

If I am wrong in making this request, permit me to plead the indulgence you have always, generously, given me, in permitting me freely to write and speak my sentiments on every Subject, and as I have the utmost confidence in your disinterestedness in matters of a public as well as of a private nature, and that you never had, nor do I believe you ever will have, any views inconsistent with what you consider to be the true interest of the States, your Opinion, if you are so obliging as give it, I shall receive with the greatest Pleasure, and as I have the greatest confidence in your judgment, it will enable me to view the Government proposed in its true light.

288-B. *Timothy Pickering to Charles Tillinghast*
*Philadelphia, 6 December*²

I recd. your favour, inclosing a pamphlet signed the *federal farmer*, and requesting my opinion on the Constitution proposed by the Genl. Convention for the government of the United States.—I will give it to you as

soon as I find leisure to write so long a letter as the subject will require, if I assign any reasons for my opinion. In the mean time I will give you that opinion, which is, That we ought not to hesitate to adopt the Constitution. The federal farmer is not a fair reasoner; and like all other opposers alarms himself & would alarm his readers with imaginary fears.

288-C. *Timothy Pickering to Charles Tillinghast*
*Philadelphia, 24 December*³

I acknowledged the receipt of your letter of Novr. 24th & in compliance with your request promised to write particularly my sentiments on the proposed constitution for the United States: but I expected my letter might be abridged, or superseded, by a publication of the debates in the convention of Pennsylvania, in which Mr. Wilson gave a satisfactory explanation of the plan, & convincing reasons for its adoption: this publication, however, I find will be delayed, by reason of the great length of the debates.⁴ I will therefore ~~enter upon a more minute consideration of~~ consider the subject as far as my leisure will permit; and as I know you possess great candour, & seek for *truth* above all things, I shall write with pleasure; and, if reasons can be offered which prove that the constitution will not *endanger*, but on the contrary, be the means of *preserving* the liberties of our country, I am sure you will give it your zealous support.—As your fears have been excited principally by the pamphlet you sent me, I will examine the chief parts of it; and if I show that the writer is chargeable with sophistry, with a want of candour, and with designed misrepresentations, you will give him up as one who under pretence of securing the freedom of the people, has very different objects in view; and tho' these may not be very obvious, yet we may be sure they exist: for *honest* intentions will put on no *disguise*.

I may first notice the art of the writer in assuming the title of The *Federal Farmer* & professing his “federal attachments” to prepossess his *federal* readers with an opinion that he *really wishes* to have established a *good federal government* for these states: but, Sir, I think it will appear that he is a *wolfe* in *sheep's* cloathing.—His next attempt is to prejudice his readers against the constitution, by ~~insinuating~~ ~~suggesting~~ exciting suspicions of the eminent characters by whom it was formed; suggesting that the leading men in the convention were of aristocratic principles & seized the opportunity of laying the foundation of one general *aristocratic* government for the United States; and at the same time affecting deeply to lament the non-attendance of a few members whose presence & influence would have prevented it. Who those non-attending members were, I know not: probably some were *necessarily* absent; others perhaps from

too great an indifference about the important interests of their country, and whose absence therefore is not a subject for lamentation: at all events, it must be admitted that the attending members were ~~abundantly~~ fully competent to the task of forming a plan of government for the U.S: and if we examine the characters of those who concurred in its adoption, we shall be satisfied that they aimed at forming a *good* one—the *best* indeed that could be agreed on.

Before I proceed to the plan itself let me remark another artifice of the *federal farmer*, and other opponents of the New Constitution, in raising a cry about *aristocracy*, as being (what it really is) the most oppressive kind of government; and then perpetually suggesting that the General Convention & the ~~present defenders~~ advocates of the constitution, designed & wished to introduce & establish that ~~oppressive~~ very government. But, my dear sir, be not alarmed with empty sounds. In the proposed constitution there is no foundation for an aristocracy: for its officers (including in that term as well the legislative as the executive branches) do not hold their places by *hereditary right*, nor *for life*, nor *by electing one another*; neither is *any portion of wealth or property* a necessary qualification. If a man has virtue & abilities, tho' not worth a shilling, he may be the *president* of the United States. *Does this savour of ARISTOCRACY?* On the contrary, does it not manifest the marked regard of the Convention to ~~preserve~~ the equal rights of the people, without suffering mere *wealth* to hold the smallest preeminence over *poverty* attended with *virtue* and *abilities*. It deserves, indeed, particular notice, that while several of the state constitutions prescribe certain degrees of property as indispensable qualifications for offices, this which is proposed for the U.S. throws the door wide open for the entrance of *every* man who enjoys the confidence of his fellow citizens. We should also observe, that titles of nobility, a great stimulus to ambition, & the most odious as well as most dangerous distinction between the members of a community, are pointedly excluded from this system. If great *hereditary estates*, the foundation of *nobility*, are suffered to *continue* or to be *created* by entails it will be the fault, of the individual states, and not of the general government of the union. The laws of most, if not all, of the states admit the distribution of the property of a deceased citizen among all his children; and no *entails* ought to be permitted. And when all existing entails shall be broken, & future ones forbidden, we may make ourselves easy about aristocratic ambition. Great accumulations of wealth will then be rare, of short continuance, and consequently never dangerous.

The *federal farmer* describes three different forms of free government, under [either?] of which he says the United States may exist as a nation. The first is that which is at present established by the articles of confed-

eration. The second is a government which might be grounded on the annihilation of the state governments, & a perfect union or consolidation of all the states under one entire government. The third will consolidate the states for certain national objects, and leave them severally distinct, independent republics as to internal police generally. The last is the form of government he would choose; and 'tis the last which has been chosen and recommended to the people by the general convention. The only difference, then, between them, should arise about the distribution of powers to be vested in the general government, & the governments of the several states. On this point we may expect men will differ: the general convention acknowledged the difficulty of drawing with precision the line between those rights which must be surrendered, & those which may be reserved. Let us now view their plan, & after a dispassionate consideration of it, seriously ask ourselves whether a better distribution of powers could be made? whether any are granted assigned to the general national government which do not strictly embrace national objects? & whether with less power the general government can preserve the union, establish justice, insure domestic tranquility, provide for the common defence & general welfare of the United States, & secure the blessings of liberty to ourselves and our posterity?

I shall not spend your time in descanting on one entire government for the United States, which would abolish all the state governments: for as such a government is not in contemplation, we have nothing to do with it. I will only remark, that as 'tis admitted by all, to be a form of government unsafe for a country so extensive as ours, the federal farmer and other opposers of the constitution, endeavour, by their bold, but unwarrantable assertions, to persuade their readers, not only that it will issue in such an entire government, but that its framers "proposed the partial consolidation with a view to collect all powers, ultimately in the United States into one entire government." This, indeed, is an extraordinary conclusion. The federal farmer admits the necessity of the "partial consolidation as the only plan of government which can secure the freedom & happiness of this people": and yet, when the Convention have proposed a "*partial*⁵ consolidation" he says they evidently designed thereby to effect ultimately *an entire* consolidation! (See page 10.)⁶

In respect to the organization of the federal government, the federal farmer, as well as other opposers, object to the smallness of the representation of the people in the House of Representatives; and uniformly reason upon the supposition that it will never consist of more than 65 members; which is the number it is to be composed of only until the actual enumeration of the people shall have been made. As soon as that shall be effected, the House of Representatives, reckoning one

member for every 30 th[ousand] of the people, will consist probably of at least one hundred members; and in 25 years more, of 200 members; and in half a century, it would consist of 400 members. It is true the Congress will possess a power of limiting the number of representatives, so that they shall never *exceed* one for every 30 thousand & they *may* be less; this power of regulating & [limiting?] the number of representatives is properly vested in Congress; otherwise that House would in a century become a most unweildy body, and as very a mob as the British House of Commons. Such a power of regulating the number of the representatives in the legislature is not a novelty. In Pennsylvania, where the proposed Constitution has been so violently opposed, there is vested in the Legislature a similar power.—The capital error of all these objectors and which reduces all their reasoning to mere sophistry, is their assuming for granted *that our federal rulers will necessarily have interests sepirate from those of the people, and exercise the powers of government not only arbitrarily, but even wantonly*. But, sir, on what do they ground such wild surmises? Why they tell you that Congress will have power to regulate the elections to senators & representatives, and that possessing this power, they will exercise it to deprive the people of the freedom of election. The federal farmer says (page 16) “The general legislature *may* so regulate elections as to secure the choice of any particular description of men—it *may* make the whole state one district—make the capital, or any places in the state, the place or places of election”⁷⁷—& so forth, in the same chimerical strain. But does he,—does any man of common sense, really believe that the Congress will ever be guilty of so wanton an exercise of power? Will the immediate representatives of the people in Congress ever consent to so oppressive a regulation? For whose benefit would they do it? Would not the first attempt certainly exclude themselves? And would not the state legislatures at their next election of senators, as certainly reject every one who should give his assent to such a law? And if the president did not firmly give his ~~partial~~ qualified negative to it, would he ever again be placed in the chair of government? What other oppressive regulation can they make which will not immediately, or in a short time, affect *them* in common with their fellow citizens? What then have we to fear on this head?—But will no advantage arise from this *controuling* power of Congress? Yes, certainly. I say a *controuling* power, because a candid interpretation of that ~~clause in the constitution will convince us that it was designed only to enable the Congress to establish a uniformity in the mode of election that all the members of the legislature may stand on equal ground to cause it to be made in due time that the formation of a Congress may not be delayed by the delinquency of particular states and at places convenient to the~~

~~people~~-section in the constitution will show that it is intended and expected that the times, places & modes of electing senators & representatives should be regulated by the state legislatures; but that if any particular *state government* should be refractory, and in the pride of *state* sovereignty, or influenced by any other improper motive, should either make no such regulations, or improper ones, then the Congress will have power to make such regulations as will insure to the *people* their rights of election, and *establish a uniformity in the mode of constituting the members of the Senate & House of Representatives*. If we give a loose to our imaginations, we may suppose that the State governments *may* abuse *their* power, and regulate these elections in such manner as would be highly inconvenient to the *people*, & injurious to the common interests of the States. And if such abuses should be attempted, will not the *people* rejoice that Congress have a *constitutional* power of correcting them?

The next objection is made to the constitution of the Senate, where the smallest state as "Delaware will have as much constitutional influence as the largest in the Union." This objection is made with an ill grace by those who pretend to be advocates for a *federal* in opposition to a *consolidated* government. The *federal farmer* confesses that "the senate is entirely on the federal plan." And tell me sir, without this equality of voice in the *senate* what *constitutional* means have the *small states*, of preserving that portion of independency which by this constitution they will retain. This reservation to each state of equal power in the *senate* is one striking proof that an entire consolidation or union of all the powers of government in the general legislature, was never intended: For in such a union of powers, the representation of each state in the senate should, like that in the House of Representatives be proportioned to the numbers of the people. But whether this equal power of each state in the Senate be proper or not what other provision could be made? The states represented in the General Convention were each sovereign & independent; and if the small states refused to yield that point, what was to be done? Was the union to be dissolved?—Notwithstanding this equality of power in the Senators of each state, have not the larger states made a great acquisition, by obtaining in the other branch of the legislature a representation proportioned to their strength & importance? How much more *equal* just will be their representation in the general government, by the proposed constitution, than it is now under the old articles of confederation?—In the choice of the president & Vice President the large states have also a voice proportioned to their numbers: unless in the case of the president no one candidate has a majority of the votes; for then the *federal* principle is again to operate, and the president is to be selected by the votes of the *states*, the representatives of each having one vote.—

On this branch of the general government, the federal farmer makes this observation—"I suppose it was impracticable for the three large states, as they were called, to get the senate formed on any other principles: But this only proves, that we cannot form one general government on equal & just principles and that we ought not to lodge in it such extensive powers before we are convinced of the practicability of organizing it on just and equal principles."—Here we see the issue of all the objections of the federal farmer & other opposers of the Constitution: they go to the rejection of every form of an efficient government for the United States; and if these gentlemen could prevail, no such government would obtain, & the union would soon be dissolved: The fatal mischiefs that would result from such a dissolution need not be pointed out. I am happy however to find their opinions have so little influence. Two states have already unanimously adopted the Constitution. The opposition to it in Pennsylvania is evidently the opposition of a *State-Party*. This party is distinguished by the term *Constitutionalists*, which title they assumed as the warm advocates of the ill-arranged constitution of this state. Their opponents called themselves Republicans. And the politics of the state have been constantly vibrating as the one or the other party gained an ascendancy in the government. On the present question however the scene is greatly changed. Many, & those of the most sensible and worthy among the Constitutionalists, have decidedly declared themselves in favour of the proposed constitution, for the United States and the Republicans to a man (I believe) are its determined advocates. If it meets any opposition in the N. England states, it will be chiefly from the Shayites & Paper-Money-men: but their numbers & characters are alike contemptible.

But to return to the federal farmer. He mentions, as an objection, the eligibility of the members of Congress to offices civil and military, but without subjoining that the moment they accept any such offices they lose their seats in Congress. He objects also to the powers of the senate as too extensive, & thinks they will too much controul the president: and he even affects to tremble for the House of Representatives itself; as in danger of being oppressed by this Mighty Senate; (see page 20.)⁸ which is truly ridiculous. Can the Senate make war—raise armies, build navies, or *raise a shilling of money* without the House of Representatives? No! Where then is the danger that this House will be oppressed?—*But the Senate have in effect the power of conferring offices.* No such thing: they can only *approve* those whom the president shall *name* to offices; and the president, ~~like the members of the House of Representatives,~~ is to be chosen mediately by the *people*. The president will have no dependence on the state governments, & therefore will feel no inducements to submit himself

to *their* representatives. Even the federal farmer admits "that the election of the president & Vice president seems to be properly secured."

He objects to the powers of the judicial department, saying "in the Judges of the supreme court are lodged the *law*, the *equity*, and the *fact*." These powers, he says, in well balanced governments are ever kept distinct. Why, sir, there are no such governments in the world, save the British, and those which have been formed on the British model, that is, the governments of the United States. Except in those governments, a court of equity, distinct from a court of law, is unknown. And among the U.S. two or three only I believe have such distinct courts of equity; in the rest, the courts of law possess also the powers of courts of equity for the most common & useful purposes. "It is (says the federal farmer) very dangerous to vest in the same judge power to decide on the law, and also general powers in equity; for if the law restrain him, he is only to step into his shoes of equity, and give what judgement his reason or opinion may dictate." Sir, this is all stuff. Read a few passages in Blackstone's commentaries and you will be convinced of it. "Equity (says he B. III. Ch. 27.)-is the *soul & spirit* of all law. *Positive* (or statute) law is *construed*; and *rational* law is *made*, by it. In *this*, equity is synonymous to Justice; in *that*, to the true sense & sound interpretation of the rule. But the very terms of a court of *equity* and a court of *law*, as contrasted to each other, are apt to confound & mislead us: as if the one judged without equity, & the other was not bound by any law. Whereas every definition or illustration to be met with which now draws a line between the two jurisdictions, by setting law & equity in opposition to each other, will be found either totally erroneous, or erroneous to a certain degree." "Thus it is said that it is the business of a court of equity in England to abate the rigour of the Common Law. But no such power is contended for." "It is also said, that a court of equity determines according to the spirit of the rule, and not according to the strictness of the letter. But so also does a court of law. Both, for instance, are equally bound, and equally profess, to interpret statutes according to the true intent of the Legislature."-"There is not a single rule of interpreting laws, whether equitably or strictly, that is not equally used by the judges in the courts both of law & equity."-"Each endeavours to fix and adopt the true sense of the law in question; neither can enlarge, diminish, or alter that sense in a single tittle." Wherein then, you will ask, consists the essential difference between the two courts? Take Blackstone's answer. "It principally consists in the different modes of administering justice in each; *in the mode of proof, the mode of trial, & the mode of relief*."⁹-From him also you will learn, that an act of parliament, was passed in the reign of Edward I (See Commentaries B III. Ch. 4)¹⁰ making a provision which, by a little liberality in the Judges of the courts of law

“might have effectually answered all the purposes of a court of equity.”—As our ideas of a court of equity are derived from the English Jurisprudence, so doubtless the Convention, in declaring that the judicial power shall extend to all cases in *equity* as well as *law*, under the federal jurisdiction, had principally a reference to the *mode of administering justice*, in cases of equity, agreeably to the practice of the court of Chancery in England.

I intended, my dear sir, to have examined all the principal objections of the federal farmer: but to do it particularly, I find would oblige me to write a volume: and I see in every page of his pamphlet so much disingenuity, I confess that I lose my patience: neither have I time to treat the subject much farther in detail. Let me observe generally, that the federal farmer, & other writers of the same stamp, upon reciting the powers of the Congress artfully throw in expressions, unduly to alarm their readers, with ideas that those powers will be *arbitrarily* exercised.—Such as “Will & pleasure” at Discretion—“Absolute power.” &c. (In page 21.),¹¹ he says “a power to lay & collect taxes *at discretion*, is in itself of very great importance.” This is very true; but what then? Does not the legislature of New-York, & of every other state, possess the power of taxing the people at *discretion*? at *will & pleasure*? and in this as well as many other things is not their power *absolute*? But the presumption is, that this *discretion*, *will & pleasure*, & *absolute power*, will be under the direction of *reason*, and this presumption is so well founded, that the people are, in fact, under no apprehensions of oppression from the exercise of such powers.

I mentioned the disingenuity of the federal farmer. In addition to the instances already noticed, take the following. In letter 3d. p. 15 referring to the proposed constitution, he says, “I wish the system adopted, with a *few* alterations; but those in my mind are essential ones.”¹² Attend then to his remarks on the system, and you will find he objects to *every* essential part. To the *smallness* of the house of representatives—To the *federal & small* representation of the States in the Senate—And to the *president* as “a new species of executive,” and possessing too little power—To the *Judiciary* as vested with sundry powers which ought to be separated & exercised by different courts & bodies of men—And to the Congress, generally, as vested with too many powers. In a word, he objects to the *whole system* in the following passage, page 15. “I am fully convinced that we must organize the national government on *different principles*, and make the parts of it more efficient, and secure in it more effectually the different interests in the community; or else leave in the State governments some powers proposed to be lodged in it—at least till such an organization shall be found practicable.”¹³ In page 20. he admits “the

formation of the Senate & the smallness of the House (of representatives.) to be the result of our situation, & the actual state of things:” such, consequently, as if we have any general government at all, we *must* be contented with; yet immediately after, he endeavours to alarm us with the apprehensions of corruption in those assemblies, because *so few* may constitute a majority in each, and therefore easily “be influenced by bribes, offices & civilities”!¹⁴—In page 21. he admits that the powers of regulating commerce, imposts, coin &c. *ought clearly* to be vested in Congress:¹⁵ yet in the next page joining the powers respecting coin and commerce with others he *says* they “will probably soon defeat the operations of the state laws & governments”!¹⁶ Thus he, like the other anti-federal writers, is perpetually conceding and retracting. They all know that the *people* of these states *feel* the necessity of an *efficient* federal government; & therefore they *affect* to desire the same thing: but in order to defeat the measure not only object to every material part of the system, but artfully start vain objects of fear & throw in here & there a sentence importing that such an efficient general government consistent with the liberties of the people is in the nature of things *impracticable*.

I will now as concisely as possible take notice of the powers of Congress, and enquire whether any which are improper or dangerous are proposed to be granted to them. But let me previously remark—That the *people* of the United States form *one nation*—that tis evidently their interest and desire to continue *one nation*—altho’ for the more easy and advantageous management of the affairs of *particular districts*, the people have formed themselves into 13 separate communities, or states; that the *people* of these distinct states, having certain common & general interests, it is obviously necessary that one common & general government should be erected, to manage those interests for the best good of the whole; that as all power resides originally in the *people*, they have a right to make such a distribution of it as they judge their true interests require. Consequently, they may constitute such officers as they think best, and with such powers as they think proper to confer, for the management of the affairs of their *respective communities*; and at the same time appoint another set of officers with general powers to conduct the common concerns of *all the communities or states united*.

Let us now see whether a single power is proposed to be vested in the *general government*, which does not concern more than a *single state*.

The Congress The General Government will have power to *declare war*—to provide for the *common defence*, and *general welfare* of the United States; to *borrow money* on their credit; to raise armies—build navies—and to *make treaties* with foreign nations. Now when powers are given to accomplish any particular thing, it is the dictate of common sense that

such other subordinate powers as are indispensably necessary to that end should also be given, either expressly or by fair implication. But without the power of direct taxation how can the general government with certainty provide for the common defence raise armies, build navies, or repay monies which it shall have borrowed? The imposts may be insufficient. Other sources of revenue therefore must be opened. "It will be said—it has been said—the Congress may make requisitions on the several States!"—True, and be denied! "But if any state refuses to furnish its quota let the Congress have the power of *compelling* payment to be made by such delinquent state."—And do you think sir this *compulsive* mode more eligible, than in the first instance to vest Congress with a *Constitutional* power of levying taxes for necessary national purposes? When a person has once refused what he ought to grant, do we not often see that from mere pride & obstinacy he persists in the refusal? States are composed of men, and are influenced by similar passions.—What if the 13 States were quite removed from the sea-coast, and revenues from imposts were consequently out of the question; at the same time their situation & circumstances should, as at present, require an intimate union, for their common good & security? How should the common treasury be supplied? We have had too melancholly proofs that *requisitions* on the 13 "sovereign & independent States" would be fruitless.—The Congress must then in such case have the power of direct taxation. And what would then be necessary for the *entire supplies* to the public treasury, may in our present situation be equally necessary to make good the *deficiencies* of the revenues arising from commerce. I therefore am willing, to submit to such direct taxation, whenever it shall be necessary to support the general government, & maintain the faith of the United States. And I am satisfied that as every such tax will equally affect the persons & estates of all the members of the general legislature, the power of levying it will be exercised with that prudence & propriety which we have a right to expect from wise and honest representatives—for if they are not wise and honest, it will be our own fault in choosing them; when we shall have no right to complain.

On a like principle it is proper that Congress should have power to provide for organizing, arming, and disciplining the militia, and for calling it forth to execute the laws of the union, suppress insurrections, & repel invasions. As the militia of different states may serve together, the great advantages of uniformity in their organization, arms & discipline must be obvious to every man who is possessed of any degree of military knowledge. But this uniformity can be introduced & maintained only by the power of the general government. It is also equally necessary that Congress should have power to call forth the militia for

the purposes expressed in the constitution. In the late war, pressing as was the common danger, we have been witnesses of the delays of states to furnish their contingents, and of their unequal exertions. If this power is vested in Congress, the calls will ever be proportioned, in time as well as extent, to the exigency of the service. Yet this power, useful & necessary as it is, has been objected to as dangerous, & in its nature oppressive; and therefore, it is concluded that it ought to remain with the *state legislatures*. But who are they? The *servants* of the *people*,—chosen by them to superintend the *local* concerns of their *particular states*. And who are the Congress?—Can you give a different answer? Are not *they* also the *servants* of the *people*,—chosen by them to superintend their *general* concerns in the *United States*?—Only bear always in your mind, sir, that the inhabitants of the United States are but *one people, one nation*, and all fears and jealousies about the annihilation of State governments will vanish. Some men pride themselves in their particular state sovereignties; and are extremely jealous that the general government of the United States will swallow them up. Ridiculous!—Do not the *people* constitute the *states*? Are not the *people* the *fountain* of *all power*? & Whether this flow in 13 distinct streams,—or in one larger stream, with thirteen branches, is not the *fountain* still the same? and the *Majesty* of the *People* undiminished?

These objectors make a loud out-cry about *standing armies*; as tho' a large and oppressive one, like the armies of the European nations, must be the necessary consequence of the adoption of this system: but this proceeds either from a want of discernment, or a design to excite a false alarm. We have a standing army at this hour—a small one indeed, & probably not adequate to the security of our frontiers; (tho' Congress have not the means of enlarging it, however necessary it may become:) And whilst we have frontiers to defend, and arsenals to secure, we must continue to have a standing army.—The fallacy lies here. In Europe large standing armies are kept up to maintain the power of their *hereditary monarchs*, who generally are *absolute*. In these cases the standing armies are instruments to keep the people in slavery. But remember that in the United States a standing army cannot be raised or kept up without the *consent* of the *people*, by their representatives in Congress—representatives whose powers will have very limited durations, and who cannot lay a single burthen on the people of which they and their children will not bear their proportion. The English (& no people have been more jealous of their liberty) have never gone farther than to declare that a standing army ought not to be kept up *without the consent of parliament*. It is very possible indeed that this consent may sometimes be improperly obtained, through the undue and corrupt influence of an *hereditary monarch*: But as we have not nor in the ordinary course of our affairs have

reason to expect any such creature in the United States, we may make ourselves easy on this head.—On this subject I will add one remark—That vesting *Congress* with power to call out the militia, as the exigencies of the union may require, instead of being complained of as a grievance, demands the warmest approbation of those who are in dread of a standing army; for that efficient command of the militia will forever render it unnecessary to raise a permanent body of troops, excepting only the necessary guards requisite for the frontiers & arsenals.

There is but one other objection which I have time to notice. That respects the judicial powers. The federal farmer, and other objectors, say the causes between a state & citizens of another state—between citizens of different states—and between a state, or the citizens thereof, and the citizens or subjects of foreign states, should be left, as they now are, to the decision of the particular state courts. The other cases enumerated in the constitution, seem to be admitted as properly cognizable in the *federal* courts. With respect to all the former, it may be said generally, that as the local laws of the several states may differ from each other—as particular states may pass laws unjust in their nature, or partially unjust as they regard foreigners and the citizens of other states, it seems to be a wise provision, which puts it in the power of such foreigners & citizens to resort to a court where they may reasonably expect to obtain *impartial* justice. But as the courts of particular states will in these cases have a concurrent jurisdiction, so whilst they proceed with reasonable dispatch, & support their characters by upright decisions, they will probably be almost exclusively resorted to: But there is a particular & very cogent reason for securing to *foreigners* a trial, either in the first instance, or by appeal, in a *federal* court. With respect to *foreigners*, all the states form but *one nation*. This *nation* is responsible for the conduct of all its members towards foreign nations, their citizens & subjects; and therefore ought to possess the power of doing justice to the latter. Without this power, a single state, or one of its citizens, might embroil the whole union in a foreign war. The trial by jury in civil cases, I grant, is not explicitly secured by the constitution: but we have been told the reason of the omission; and to me it is satisfactory. In many of the civil causes subject to the jurisdiction of the federal courts, trial by jury would evidently be improper; in others, it was found impracticable in the convention to fix on the mode of constituting juries. But we may assure ourselves that the first Congress will make provision for introducing it in every case in which it shall be proper & practicable. Recollect that the Congress of 1775 directed jury trials in the cases of captures at sea: and that the inconveniences soon discovered in that mode of trial, obliged them to recommend an alteration, & to commit all admiralty causes to

the decision of the judge alone. So if the Convention had positively fixed a trial by jury in all the civil cases in which it is contended that it ought to have been established, -it might have been found as highly inconvenient in practice as the case above stated; but being fixed by the *constitution*, the inconvenience must be endured (whatever mischief might arise from it) until the Constitution itself should be altered.

I have passed over unnoticed the other powers proposed to be vested in the Congress, because it seems to be generally admitted that they can properly be lodged no where else.

I now hope sir that I have presented you with such a view of the federal constitution, as will make it appear to you not that engine of tyranny which its enemies would fain persuade us it will prove. On the contrary, I hope you will be convinced that 'tis the best constitution we at present have any right to expect; & therefore that we ought readily to adopt it. Future experience may suggest improvements which may be engrafted into it. To satisfy you of *my* hearty approbation of it, I seriously assure you, that if I were now on my dying bed, & my sons were of mature age, my last words to them would be adopt this constitution. ~~But for a clear and satisfactory explanation of it, I must refer you to Mr. Wilson's speeches in the convention of this state. I am just informed that they will be published by themselves & therefore appear sooner than I before expected.~~¹⁷ ~~Read them with attention and you may read them with confidence: for he is a great and a good man.~~

P.S. If this letter ~~or any parts of it~~ serves in measure to remove your doubts & fears, perhaps it may produce the like effect on the minds of some other *candid* enquirers; and therefore you may use it as you think proper-but only as from a *friend*, without suffering *my name* to appear, as it is of too little consequence to add weight to my sentiment, except with an *intimate friend like you*.

1. RC, Pickering Papers, MHi.

2. RC, Lamb Papers, NHi. The letter was addressed: "Mr. Charles Tillinghast New-York Hond. by General Irvine." William Irvine was going to New York City to attend Congress as a Pennsylvania delegate.

3. FC, Pickering Papers, MHi.

4. Pickering refers to Thomas Lloyd's proposed publication of the debates, which had been announced publicly in the Philadelphia *Independent Gazetteer* on 3 December (Mfm:Pa. 252). The debates, however, were not published until 7 February 1788 and they included only the speeches of Federalists James Wilson and Thomas McKean (Mfm:Pa. 410).

5. The italics are Pickering's. Throughout the critique, Pickering supplied the italics in quotations from the *Letters from the Federal Farmer*.

6. This page number and those that follow in the text refer to pages in the pamphlet. See CC:242, Letter I, paragraph 14.

7. See CC:242, Letter III, paragraph 2.

8. See CC:242, Letter III, paragraphs 7-9.

9. Blackstone, *Commentaries*, Book III, chapter XXVII, 429–30, 430, 431, 436. Most of the italics within the quoted passages are Pickering's.

10. Pp. 50–51.

11. See CC:242, Letter III, paragraph 13.

12. See CC:242, Letter III, paragraph 1.

13. *Ibid.*

14. See CC:242, Letter III, paragraphs 9 and 10.

15. See CC:242, Letter III, paragraph 12.

16. See CC:242, Letter III, paragraph 13.

17. See note 4 above and CC:289.

289. James Wilson: Speech in the Pennsylvania Convention Philadelphia, 24 November

The Pennsylvania Convention convened on 20 November. Four days later James Wilson of Philadelphia delivered some observations concerning “the general principles that have produced the national Constitution.” Wilson believed that it was “peculiarly” his duty to do so because he was the state’s only delegate to the Constitutional Convention who had been elected to the state Convention. His speech was the first to be delivered to a state convention by a former delegate to the Constitutional Convention.

The speech was summarized in the *Pennsylvania Packet* on 27 November and in the *Pennsylvania Herald* on 28 November (RCS:Pa., 334–36). By 27 December these two summaries were reprinted in a combined total of twenty-five newspapers: Vt. (1), N.H. (2), Mass. (5), R.I. (2), Conn. (2), N.Y. (4), N.J. (2), Pa. (6), S.C. (1). Alexander J. Dallas, the editor of the *Pennsylvania Herald*, who was taking notes of the Convention debates, had his notes of Wilson’s speech and a speech by Thomas McKean published as a ten-page pamphlet by Thomas Bradford of the *Pennsylvania Journal*. On 28 November advertisements in the *Pennsylvania Journal* and the *Pennsylvania Packet* first announced the publication of the pamphlet which was entitled: *The Substance of a Speech Delivered by James Wilson, Esq. Explanatory of the General Principles of the Proposed Federal Constitution; upon a Motion Made by the Honorable Thomas M’Kean, in the Convention of the State of Pennsylvania. On Saturday the 24th of November, 1787* (Evans 20889). On 4 and 18 December the pamphlet was advertised for sale in the *New York Packet*. According to a Boston printer, the pamphlet “ran through an impression of several thousands, in a few days . . . at one shilling each” (*Massachusetts Centinel*, 12 December). By 7 January 1788 this pamphlet version was reprinted in eleven newspapers: N.H. (2), Mass. (5), R.I. (1), Conn. (2), N.Y. (1).

The Dallas pamphlet stirred an immediate controversy in Pennsylvania. On 30 November Samuel Vaughan, Jr., of Philadelphia wrote that the pamphlet was “very inaccurate, & not only parts are omitted & the leading points often lost for want of seizing the exact expression, but some parts are absolutely mis-stated” (to James Bowdoin, RCS:Pa., 263). Thomas Lloyd of Philadelphia, who was taking shorthand notes of the Convention debates, advertised in the *Philadelphia Independent Gazetteer* on 3 December, disclaiming any responsibility for the pamphlet and pledging to present Wilson’s speech “without mutilation or misrepresentation” (Mfm:Pa. 252). Lloyd’s version was not published until 7 February 1788 (Mfm:Pa. 410).

Wilson’s speech provoked sharp partisan responses throughout the United States. Jasper Yeates, a Lancaster County delegate to the Pennsylvania Conven-

tion, described the speech as “one of the most sensible, learned and elegant” speeches his “ears were ever gratified with” (to Mrs. Yeates, 24 November, Mfm:Pa. 242). The *Pennsylvania Packet*, 27 November, declared that it was “a speech which the celebrated Roman orator would not have blushed to own,” while the printer of the *Massachusetts Centinel* stated that the speech “fully explains the great principles, and sets forth the excellencies of the Federal Constitution” (12 December). Francis Hopkinson of Philadelphia, commenting on the Convention debates in general, declared that “Mr. Wilson exerted himself to the astonishment of all Hearers. The Powers of Demosthenes & Cicero seem’d to be united in this able Orator” (to Thomas Jefferson, 14 December, Boyd, XII, 423; Mfm:Pa. 262). “A Pennsylvanian” III (Tench Coxe) described the 24 November speech as “solid, ingenious, and comprehensive, and worthy the perusal of every American,” and a correspondent claimed that the Wilson and McKean speeches contained “a complete system of republican government” (*Pennsylvania Gazette*, 20 February and 30 April 1788). For other praises of Wilson, see “Honorius,” *Boston Independent Chronicle*, 3 January 1788; “Valerius,” *Baltimore Maryland Gazette*, 25 January; and “A Freeman” III (Tench Coxe), *Pennsylvania Gazette*, 6 February.

Several leading Antifederalist writers delivered scathing attacks upon Wilson. “Centinel” V asserted that “Mr. Wilson has displayed much ingenuity on this occasion, he has involved the subject in all the mazes of sophistry, and by subtil distinctions, he has established principles and positions, that exist only in his own fertile imagination” (*Philadelphia Independent Gazetteer*, 4 December, CC:318). “Helvidius Priscus” I described Wilson’s speech as “insidious” (*Boston Independent Chronicle*, 27 December). “A Farmer” declared “let Mr. Wilson, and his lofty strains, go off, with a puff of wind, and soar above the clouds in an Air Balloon, he seems better calculated for that region than to make laws for a free people” (Exeter, N.H., *Freeman’s Oracle*, 1 February 1788). See also “Dissent of the Minority of the Pennsylvania Convention,” 18 December, CC:353; and “John Wilkes” I, *Independent Gazetteer*, 26 January 1788, Mfm:Pa. 371.

For the texts of Dallas’ and Lloyd’s versions of the Wilson speech, see RCS:Pa., 340–50, 350–63.

290 A–B. John Jay and the Constitution 24 November, 7 December

For some years John Jay, the Confederation’s Secretary for Foreign Affairs, advocated the strengthening of the central government. In March 1786 Jay hoped that the plan for “a general convention,” then in contemplation, would “take effect.” In January 1787, however, he questioned the legality of the Annapolis Convention’s call of a constitutional convention. Jay insisted that Congress should declare the Articles of Confederation “inadequate” and recommend that the people of the states, meeting in conventions, appoint delegates to a constitutional convention (CC:Vol. 1, 30, 36). Despite the fact that the congressional resolution of 21 February 1787 (CC:1) did not meet these conditions, Jay still supported the Constitutional Convention.

Jay’s first reaction to the Constitution was favorable. He wrote John Adams on 16 October that the Constitution was “much better” than the Articles of Confederation and “that we shall be Gainers by the Exchange” (CC:164). Jay also agreed to join Alexander Hamilton in writing a lengthy series of essays defending the Constitution; and by 10 November, Jay had written and published four of the first five numbers of *The Federalist* (CC:217, 228, 234, 252).

Because of his official position as an executive officer of Congress, Jay probably believed that he should not take a public stand on the Constitution. Since his position was not widely known, the belief that Jay opposed the Constitution gained some credence. On 22 November William Shippen, Jr., a Philadelphia Antifederalist, declared that the New York Antifederalist essays by "Brutus" were "said to be by R.H. Lee or Jay" (to Thomas Lee Shippen, RCS:Pa., 288). Two days later a correspondent in the Philadelphia *Independent Gazetteer* reported that Jay was no longer "carried away" with the Constitution and that he was "now decidedly against it" (CC:290-A). Within a month this report was reprinted in thirteen newspapers: Mass. (5), R.I. (1), Conn. (3), N.Y. (2), Md. (1), N.C. (1).

The *Gazetteer* item caused an immediate sensation. On the same day, 24 November, John Vaughan of Philadelphia wrote Jay and enclosed a copy of the report. Two days later Tench Coxe, a Philadelphia merchant, informed David S. Franks, a New York merchant, that the item "has astonished many here." He enclosed a copy of the item and asked Franks to show it to Jay (Tench Coxe Papers, Series II, Correspondence and General Papers, PHi).

On 1 December Jay authorized Vaughan to deny the *Gazetteer's* report and to indicate that he supported the Constitution. Vaughan received the letter on 5 December and it was published in the *Gazetteer* and the *Pennsylvania Packet* on 7 December. This letter was reprinted in twenty-nine newspapers by 19 January 1788: N.H. (2), Mass. (10), R.I. (2), Conn. (5), N.Y. (7), Pa. (2), Md. (1).

Twelve of the thirteen newspapers that reprinted the *Independent Gazetteer's* report of 24 November are known to have also printed Jay's letter of 1 December. Three of the twelve included both items in the same issue. The *New Haven Gazette* of 20 December and the Hartford *American Mercury* of 24 December printed both items under the heading "Antifederal Dishonesty detected," while the Middletown *Middlesex Gazette* of 24 December published both together without comment.

Other newspaper publicists also criticized the suspected deception. On 12 December the New York *Daily Advertiser* published a statement by "D--" who accused the "Antifederal party" of "base purposes." He was convinced that Jay supported the Constitution. On 20 December the *Albany Gazette* (which had not reprinted the *Gazetteer's* 24 November report) reprinted Jay's letter with this comment: "A correspondent presents his compliments to the Antifederalists, begs that in their future publications they would pay a little regard to TRUTH. Their compliance in this particular, will give much satisfaction to the honest part of the community." See also "One of the People," *Maryland Journal*, 25 December (CC:377); and "A Traveller," *Pennsylvania Chronicle*, 6 February 1788 (Mfm:Pa. 407).

On 7 December George Washington questioned James Madison about Jay's change in "Sentiments." Washington discredited the report because he believed that Jay "would consider the matter well before he would pass Judgment, and having done so, would not change his opinion, almost in the same breath" (CC:328). Two weeks later Madison informed Washington that the report about Jay was "an arrant forgery. . . . Tricks of this sort are not uncommon with the Enemies of the new Constitution" (CC:359).

290-A. Philadelphia *Independent Gazetteer*, 24 November

A correspondent says, "his Excellency John Jay, (a gentleman of the first rate abilities, joined to a good heart) who at first was carried away with the new plan of government, is now very decidedly against it, and says it is as deep and wicked a conspiracy as has been ever invented in

the darkest ages against the liberties of a free people. In New-York it goes by the name of the *gilded trap*, and very properly, for when we find men of the first abilities and best intentions at first taken with it, how very artfully must it be drawn up and glossed over, and who will then wonder that General Washington or any body else, should have signed it in Convention. The Governor of New-York¹ is very active against it, and will not call the Assembly, who in that case will not meet this some months, in the mean time the people there will have time to think for themselves on this important subject.”

290-B. *John Jay to John Vaughan*
New York, 1 December²

Mr. OSWALD, I send you an extract of a letter I have received from Mr. Jay, which I beg you will insert in your paper.

JOHN VAUGHAN.

Philadelphia, 7th Dec. 1787.³

“New-York, 1st Dec. 1787.

“Dear Sir, I thank you for your obliging letter of the 24th ult. enclosing a paragraph respecting me in Mr. Oswald’s paper of the same date. You have my authority to deny the change of sentiments it imputes to me, and to declare, that in my opinion, *it is adviseable for the people of America to adopt the constitution proposed by the late Convention*. If you should think it expedient to publish this letter, I have no objections to its being done.

JOHN JAY.”

1. George Clinton.

2. Philadelphia *Independent Gazetteer*, 7 December. This item was also published in the *Pennsylvania Packet* on 7 December, where it was addressed to Messrs. Dunlap and Claypoole. The manuscript letter is in the Madeira-Vaughan Collection, PPAmP. It is endorsed as received on 5 December and answered. The manuscript letter has no italics. Vaughan (1756-1841) was a Philadelphia merchant. He had emigrated to America from England in 1782, with letters of introduction from Jay and Benjamin Franklin.

3. Nine of the twenty-nine reprints omitted Vaughan’s letter: N.H. (2), Mass. (7).

291. Publius: The Federalist 11 New York Independent Journal, 24 November

This essay was written by Alexander Hamilton. It was reprinted in the *New York Daily Advertiser*, 27 November; *New York Packet*, 27 November; *Pennsylvania Gazette*, 16 January 1788; and *Hudson Weekly Gazette*, 17 January. See also note 1 below.

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

The FØEDERALIST. No. XI.

To the People of the State of New-York.

The importance of the Union, in a commercial light, is one of those points, about which there is least room to entertain a difference of opinion, and which has in fact commanded the most general assent of men, who have any acquaintance with the subject. This applies as well to our intercourse with foreign countries, as with each other.

There are appearances to authorise a supposition, that the adventurous spirit, which distinguishes the commercial character of America, has already excited uneasy sensations in several of the maritime powers of Europe. They seem to be apprehensive of our too great interference in that carrying trade, which is the support of their navigation and the foundation of their naval strength. Those of them, which have colonies in America, look forward, to what this country is capable of becoming, with painful solicitude. They foresee the dangers, that may threaten their American dominions from the neighbourhood of States, which have all the dispositions, and would possess all the means, requisite to the creation of a powerful marine. Impressions of this kind will naturally indicate the policy of fostering divisions among us, and of depriving us as far as possible of an ACTIVE COMMERCE in our own bottoms. This would answer the threefold purpose of preventing our interference in their navigation, of monopolising the profits of our trade, and of clipping the wings, by which we might soar to a dangerous greatness. Did not prudence forbid the detail, it would not be difficult to trace by facts the workings of this policy to the cabinets of Ministers.

If we continue united, we may counteract a policy so unfriendly to our prosperity in a variety of ways. By prohibitory regulations, extending at the same time throughout the States, we may oblige foreign countries to bid against each other, for the privileges of our markets. This assertion will not appear chimerical to those who are able to appreciate the importance of the markets of three millions of people—increasing in rapid progression, for the most part exclusively addicted to agriculture, and likely from local circumstances to remain so—to any manufacturing nation; and the immense difference there would be to the trade and navigation of such a nation, between a direct communication in its own ships, and an indirect conveyance of its products and returns, to and from America, in the ships of another country. Suppose, for instance, we had a government in America, capable of excluding Great-Britain (with whom we have at present no treaty of commerce) from all our ports, what would be the probable operation of this step upon her politics? Would it not enable us to negotiate with the fairest prospect of success for commercial privileges of the most valuable and extensive

kind in the dominions of that kingdom? When these questions have been asked, upon other occasions, they have received a plausible but not a solid or satisfactory answer. It has been said, that prohibitions on our part would produce no change in the system of Britain; because she could prosecute her trade with us, through the medium of the Dutch, who would be her immediate customers and pay-masters for those articles which were wanted for the supply of our markets. But would not her navigation be materially injured, by the loss of the important advantage of being her own carrier in that trade? Would not the principal part of its profits be intercepted by the Dutch, as a compensation for their agency and risk? Would not the mere circumstance of freight occasion a considerable deduction? Would not so circuitous an intercourse facilitate the competitions of other nations, by enhancing the price of British commodities in our markets, and by transferring to other hands the management of this interesting branch of the British commerce?

A mature consideration of the objects, suggested by these questions, will justify a belief, that the real disadvantages to Britain, from such a state of things, conspiring with the prepossessions of a great part of the nation in favour of the American trade, and with the importunities of the West-India islands, would produce a relaxation in her present system, and would let us into the enjoyment of privileges in the markets of those islands and elsewhere, from which our trade would derive the most substantial benefits. Such a point gained from the British government, and which could not be expected without an equivalent in exemptions and immunities in our markets, would be likely to have a correspondent effect on the conduct of other nations, who would not be inclined to see themselves altogether supplanted in our trade.

A further resource for influencing the conduct of European nations towards us, in this respect would arise from the establishment of a federal navy. There can be no doubt, that the continuance of the Union, under an efficient government, would put it in our power, at a period not very distant, to create a navy, which, if it could not vie with those of the great maritime powers, would at least be of respectable weight, if thrown into the scale of either of two contending parties. This would be more peculiarly the case in relation to operations in the West-Indies. A few ships of the line sent opportunely to the reinforcement of either side, would often be sufficient to decide the fate of a campaign, on the event of which interests of the greatest magnitude were suspended. Our position is in this respect a very commanding one. And if to this consideration we add that of the usefulness of supplies from this country, in the prosecution of military operations in the West-Indies, it will readily be

perceived, that a situation so favourable would enable us to bargain with great advantage for commercial privileges. A price would be set not only upon our friendship, but upon our neutrality. By a steady adherence to the Union we may hope ere long to become the Arbiter of Europe in America; and to be able to incline the ballance of European competitions in this part of the world as our interest may dictate.

But in the reverse of this eligible situation we shall discover, that the rivalships of the parts would make them checks upon each other, and would frustrate all the tempting advantages, which nature has kindly placed within our reach. In a state so insignificant, our commerce would be a prey to the wanton intermeddlings of all nations at war with each other; who, having nothing to fear from us, would with little scruple or remorse supply their wants by depredations on our property, as often as it fell in their way. The rights of neutrality will only be respected, when they are defended by an adequate power. A nation, despicable by its weakness, forfeits even the privilege of being neutral.

Under a vigorous national government, the natural strength and resources of the country, directed to a common interest, would baffle all the combinations of European jealousy to restrain our growth. This situation would even take away the motive to such combinations, by inducing an impracticability of success. An active commerce, an extensive navigation, and a flourishing marine would then be the inevitable offspring of moral and physical necessity. We might defy the little arts of little politicians to controul, or vary, the irresistible and unchangeable course of nature.

But in a state of disunion these combinations might exist, and might operate with success. It would be in the power of the maritime nations, availing themselves of our universal impotence, to prescribe the conditions of our political existence; and as they have a common interest in being our carriers, and still more in preventing our being theirs, they would in all probability combine to embarrass our navigation in such a manner, as would in effect destroy it, and confine us to a *PASSIVE COMMERCE*. We should thus be compelled to content ourselves with the first price of our commodities, and to see the profits of our trade snatched from us to enrich our enemies and persecutors. That unequalled spirit of enterprise, which signalises the genius of the American Merchants and Navigators, and which is in itself an inexhaustible mine of national wealth, would be stifled and lost; and poverty and disgrace would overspread a country, which with wisdom might make herself the admiration and envy of the world.

There are rights of great moment to the trade of America, which are rights of the Union—I allude to the fisheries, to the navigation of the

Western lakes and to that of the Mississippi. The dissolution of the confederacy would give room for delicate questions, concerning the future existence of these rights; which the interest of more powerful partners would hardly fail to solve to our disadvantage. The disposition of Spain with regard to the Mississippi needs no comment. France and Britain are concerned with us in the fisheries; and view them as of the utmost moment to their navigation. They, of course, would hardly remain long indifferent to that decided mastery of which experience has shewn us to be possessed in this valuable branch of traffic; and by which we are able to undersell those nations in their own markets. What more natural, than that they should be disposed to exclude, from the lists, such dangerous competitors?

This branch of trade ought not to be considered as a partial benefit. All the navigating States may in different degrees advantageously participate in it and under circumstances of a greater extension of mercantile capital would not be unlikely to do it. As a nursery of seamen it now is, or when time shall have more nearly assimilated the principles of navigation in the several States, will become an universal resource. To the establishment of a navy it must be indispensable.

To this great national object a NAVY, Union will contribute in various ways. Every institution will grow and flourish in proportion to the quantity and extent of the means centered towards its formation and support. A navy of the United States, as it would embrace the resources of all, is an object far less remote than a navy of any single State, or partial confederacy, which would only embrace the resources of a part. It happens indeed that different portions of confederated America possess each some peculiar advantage for this essential establishment. The more Southern States furnish in greater abundance certain kinds of naval stores—tar, pitch and turpentine. Their wood for the construction of ships is also of a more solid and lasting texture. The difference in the duration of the ships of which the navy might be composed, if chiefly constructed of Southern wood would be of signal importance either in the view of naval strength or of national œconomy. Some of the Southern and of the middle States yield a greater plenty of iron and of better quality. Seamen must chiefly be drawn from the Northern hive. The necessity of naval protection to external or maritime commerce, does not require a particular elucidation, no more than the conduciveness of that species of commerce to the prosperity of a navy. They, by a kind of reaction, mutually beneficial, promote each other.

An unrestrained intercourse between the States themselves will advance the trade of each, by an interchange of their respective productions, not only for the supply of reciprocal wants at home, but for

exportation to foreign markets. The views of commerce in every part will be replenished, and will acquire additional motion and vigour from a free circulation of the commodities of every part. Commercial enterprise will have much greater scope, from the diversity in the productions of different States. When the staple of one fails, from a bad harvest or unproductive crop, it can call to its aid the staple of another—The variety not less than the value of products for exportation, contributes to the activity of foreign commerce. It can be conducted upon much better terms, with a large number of materials of a given value, than with a small number of materials of the same value; arising from the competitions of trade and from the fluctuations of markets. Particular articles may be in great demand, at certain periods, and unsaleable at others; but if there be a variety of articles it can scarcely happen that they should all be at one time in the latter predicament; and on this account the operations of the merchant would be less liable to any considerable obstruction, or stagnation. The speculative trader will at once perceive the force of these observations; and will acknowledge that the aggregate ballance of the commerce of the United States would bid fair to be much more favorable, than that of the thirteen States, without union, or with partial unions.

It may perhaps be replied to this, that whether the States are united, or disunited, there would still be an intimate intercourse between them which would answer the same ends: But this intercourse would be fettered, interrupted and narrowed by a multiplicity of causes; which in the course of these Papers have been amply detailed. An unity of commercial, as well as political interests, can only result from an unity of government.

There are other points of view, in which this subject might be placed, of a striking and animating kind. But they would lead us too far into the regions of futurity, and would involve topics not proper for a Newspaper discussion.—I shall briefly observe, that our situation invites, and our interests prompts to us, to aim at an ascendant in the system of American affairs. (The world may politically, as well as geographically, be divided into four parts, each having a distinct set of interests. Unhappily for the other three, Europe by her arms and by her negotiations, by force and by fraud, has, in different degrees, extended her dominion over them all. Africa, Asia, and America have successively felt her domination. The superiority, she has long maintained, has tempted her to plume herself as the Mistress of the World, and to consider the rest of mankind as created for her benefit. Men admired as profound philosophers have, in direct terms, attributed to her inhabitants a physical superiority; and have greatly asserted that all animals, and with them

the human species, degenerate in America—that even dogs cease to bark after having breathed a while in our atmosphere^(a). Facts have too long supported these arrogant pretensions of the European: It belongs to us to vindicate the honor of the human race, and to teach that assuming brother moderation. Union will enable us to do it. Disunion will add another victim to his triumphs. Let Americans disdain to be the instruments of European greatness! Let the thirteen States, bound together in a strict and indissoluble union, concur in erecting one great American system, superior to the controul of all trans-atlantic force or influence, and able to dictate the terms of the connection between the old and the new world!>¹

(a) *Recherches philosophiques sur les Americains.*²

1. The text within angle brackets was printed in the *Salem Mercury* on 4 December and reprinted four times by 14 January 1788: Mass. (1), Pa. (1), Md. (1), S.C. (1). Neither the *Mercury* nor the four reprints identified this as an excerpt from *The Federalist*.

2. Corneille De Pauw, *Recherches Philosophiques sur les Américains, ou Mémoires Intéressants pour Servir à l'Histoire de l'Espece Humaine* . . . (3 vols., Berlin, 1770), I, 13. De Pauw's *Recherches* were first published in 1768 and 1769.

292. An Old Whig VI

Philadelphia Independent Gazetteer, 24 November¹

MR. PRINTER, I think it is an observation of Dean Swift, that, in political matters, all men can feel, though all cannot see. Agreeably to this doctrine we find, that the necessity of giving additional powers to Congress is at length *felt* by all men, though it was not foreseen by a great number of the people. As the states individually could not protect our trade, foreign nations, friends as well as enemies, have combined against it; and at the same time that our trade is more beneficial to any nation in Europe, than the trade of any nation in Europe is to us, because we export provisions and raw materials and receive manufactures in return: we are not suffered to be the carriers of our own produce—foreign bottoms engross the whole of our carrying trade, and we are obliged to pay them for doing that which it is the interest of every people to do for themselves. Our shipwrights are starved, our seamen driven abroad for want of employ, our timber left useless on our hands, our ironworks, once a very profitable branch of business, now almost reduced to nothing, and our money banished from the country. These with the train of concomitant evils which always attend the loss of trade, or a state of trade which is unprofitable, have justly alarmed us all; and I am firmly persuaded that scarcely a man of common sense can be found, that does not wish for an efficient federal government, and lament that it has been delayed so long. Yet at the same time it is a mat-

ter of immense consequence, in establishing a government which is to last for ages, and which, if it be suffered to depart from the principles of liberty in the beginning, will in all probability, never return to them, that we consider carefully what sort of government we are about to form. Power is very easily encreased; indeed it naturally grows in every government; but it hardly ever lessens.

The misfortunes under which we have for some time laboured, and which still press us severely, would be in a great measure alleviated, if not wholly removed, by devolving upon Congress the power of regulating trade and laying and collecting duties and imposts. If these powers were once fully vested in Congress, trade would immediately assume a new face, money and people would flow in upon us, and the vast tracts of ungranted lands would be a mine of wealth for many years to come. I am persuaded, that with this addition to the powers of Congress, we should soon find them sufficient for every purpose; and it is very certain that if we did not find them sufficient, we could easily encrease them. But instead of being contented with this, the late convention by their proposed constitution, seem to have resolved to give the new continental government every kind of power whatsoever, throughout the United States. This power I have already attempted to show, is not limited by any stipulations in favour of the liberty of the subject, and it is easy to shew, that it will be equally unchecked by any restraint from the individual states. The treasure of the whole continent will be entirely at their command. "The Congress shall have power to levy and collect taxes, duties, imposts and excises." And what are the individual states to do, or how are they to subsist? may they also lay and collect taxes, duties, imposts and excises? If they should, the miserable subject will be like sheep twice shorne; the skin must follow the fleece. But the fact is, that no individual state can collect a penny, unless by the permission of Congress; for the "laws of the United States shall be the supreme law of the land, any thing in the constitution or laws of any state to the contrary, notwithstanding." The laws of the individual states, will be only *Leges sub graviore Lege*: for the power of enacting laws necessarily implies the power of repealing laws; and therefore Congress, being the supreme legislatures, may annul or repeal the laws of the individual states, whenever they please. Not a single source of revenue will remain to any state, which Congress may not stop at their sovereign will and pleasure; for if any state attempt to impose a tax or levy a duty, contrary to the inclination of Congress, they have only to exert their supreme legislative power and the law imposing such tax or duty, is done away in a moment. For instance, it will very soon be found inconvenient to have two sets of excise officers in each town or county in every state, they will

be in danger of clashing with each other, it will then be found “necessary and proper for carrying into execution the powers vested by the constitution in the government of the United States, or in some department or officer thereof;” to forbid the individual states to levy any more excise. Congress may chuse to impose a stamp-duty. It will be very inconvenient for people to run back and forward to different offices, to procure double stamps, and therefore it will be thought “necessary and proper” to forbid any state to meddle with stamp-duties. The same will be the case with many other taxes. They will be in danger of clashing with each other, if Congress and the several states should happen to lay taxes on the same article. The States therefore individually, will be restrained from imposing any taxes upon such articles as Congress shall think proper to tax. They must then try to find out other articles for taxation, which Congress have not thought proper to touch. This I fear will be a difficult task: for the expensive court to be maintained by the great president, the pay of the standing army and the numerous crouds of hungry expectants, who have lost their all, and it will be said, have lost it by their zeal for the new constitution, must necessarily employ the sharpest wits among their ablest financiers, to devise every possible mode of taxation; and besides, if an individual state should hit upon a new tax that should happen to be productive, there is no doubt but it would soon be taken from it and appropriated to the use of the United States. The inhabitants of the TEN MILE SQUARE, would find ways and means to dispose of all the money that could possibly be raised in every part of the United States. What then will become of the separate governments? They will be annihilated; absolutely annihilated; for no man will ever submit to the wretchedness and contempt of holding any office under them.

The advocates of the proposed constitution, seem to be aware of the difficulty I have hinted at, and therefore it is, I presume, that in conversation as well as in their publications, we are told that under the proposed constitution, “direct taxation will be unnecessary;” that “it is probable the principal branch of revenue will be duties on imports.”²² Some of those who have used such language in public and private, I believe to be very honest men; and I would therefore ask of them, what security they can give us, that the future government of the continent will in any measure confine themselves to the duties upon imports, or that the utmost penny will not be exacted which can possibly be collected either by direct or indirect taxation? How can they answer for the conduct of our future rulers? We have heard enough of these fair promises for the good behaviour of men in office, to learn to doubt of their fulfilment, unless we guard ourselves by much better security, there will

be no bounds to the new government. They will not have as much to spare for the separate states to collect as Lazarus picked up of the fragments from the rich man's table.³ There are mouths at this moment gaping in the United States for all that can possibly be collected;—a confederacy is already formed for dividing the public cake to the last crum; and I wish they may not quarrel for more.

But if I were mistaken in this opinion; if in the language of these gentlemen, "it is probable that the principal branch of the public revenue will be duties on imports;"—if it is probable that these with the back lands and the post-office will be sufficient, where was the necessity of being in such haste to grant more;—to grant all without limits or restrictions? Men do not usually give up their whole purse where they can pay with part. Why might we not try at least how far the customs and back lands would go before we give all away from the separate states, without reserving any thing for their support.

The true line of distinction which should have been drawn in describing the powers of Congress, and those of the several states, should have been that between internal and external taxation. I am persuaded that the existence of the several states in their separate capacities, and of the United States in their collective capacity, depends upon the maintaining such distinction. Without the power of imposing duties on foreign commerce and regulating trade, the United States will be weak and contemptible, and, indeed, their union must be speedily dissolved: And on the other hand, if the Legislature of the United States shall possess the powers of internal as well as external taxation, the individual states in their separate capacities, will be less than the shadows of a name.

I observe that the late delegates of Connecticut, in their letter to the Governor, speak of the power of direct taxation as an authority which need not be exercised if each state will "furnish the quota."⁴ Yet there is no doubt but they may exercise this power if they choose to do it; and they alone will have the right of judging what quotas the several states shall be required to furnish. They may ask as much as they please, and if the states do not furnish all they ask, they may tax at their pleasure; under these circumstances the power of internal taxation will undoubtedly be exercised by the Continental Legislature. If it be said that it is to be expected that the Congress will exercise this power with moderation, I venture to pronounce that those who indulge such hopes, are not acquainted with the principles of human nature. Independent of the multitudinous expectations which the followers of the proposed Constitution entertain in their own favor, which alone, if gratified, would consume the treasures of two such continents as this; there is a spirit of rivalry in power, which will not suffer two suns to shine in the same

firmament, one will speedily darken the other, and the individual states will be as totally eclipsed, as the stars in the meridian blaze of the sun. We have seen too much of this spirit in the several states, under the present loose and futile confederation. A jealousy of the powers of Congress in the separate states, which is founded in the same rivalry of power, and which, however contemptible it may appear, was alike founded in the principles of human nature, may furnish us an exemplary lesson upon this head: And when we verge to the other extreme by vesting all power in Congress, we shall find them equally jealous of any power in the individual states, and equally possessed of the same spirit of rivalry, which heretofore denied the necessary supplies from the states to Congress.—We shall never be able to support the collective powers of the United States in Congress, and the powers of the individual states in their separate capacities, without drawing the line fairly between them. If we leave the states individually to the mercy of the Continental Government, they will be stript of the last penny which is necessary for their support: if we give all powers to one, there will be nothing left for the others. The lust of dominion, where it is indulged, will swallow up the whole.

But I shall be told that if Congress are left to depend upon requisitions from the individual states for any part of the necessary supplies, the same difficulty will remain which has hitherto existed; and I may be asked, what shall we do if the supplies should fall short? I answer that although nothing but a very serious necessity of money for continental purposes will ever procure supplies upon requisition from the separate states, yet when that necessity exists in any degree that is really alarming to the whole community, I do not think that such supplies are to be dispaired of. We have seen many instances of aid being furnished, even voluntarily upon pressing occasions, which should teach us to rely on the exertions of the states upon occasions of real and not mere imaginary necessity. One thing will certainly follow from the Continental Governments being restrained to external taxation;—that it will be under the necessity of exercising more œconomy than it has done, especially during the late war. We have been witnesses of such a profuse expenditure of public money at some periods, as these states could never support. This profusion ought to convince us that if all the treasures of the continent are intrusted to the power of Congress, there is too much reason to fear that the whole will be consumed by them, and nothing left to the individual states; and judging from past experience we may venture to presage that the people will be fleeced without mercy, if no check is maintained upon the power of Congress in the articles of taxation.

We ought to be very fully convinced of an absolute necessity existing before we entrust the whole power of taxation to the hands of Congress; and the moment we do so, we ought by consent to annihilate the individual states; for the powers of the individual states will be as effectually swallowed as a drop of water in the ocean; and the next consequence will be a speedy dissolution of our republican form of government.

1. Reprinted: *New York Journal*, 4 December; *New Haven Gazette*, 6 December. For a discussion of the authorship, circulation, and impact of "An Old Whig," see CC:157.

2. Quoted from Roger Sherman and Oliver Ellsworth to Governor Samuel Huntington of Connecticut, 26 September, which was published in the *New Haven Gazette* on 25 October (CC:192). Similar statements were made by Pennsylvanians James Wilson and "One of the People." In his 6 October speech Wilson predicted "that the great revenue of the United States must, and always will be raised by impost . . ." (CC:134); while "One of the People" stated that "A general impost throughout the states will lighten their [i.e., landed men] burthen, and the greater part of our taxes will be paid by duties on foreign manufactures and the luxuries of life" (*Pennsylvania Gazette*, 17 October, RCS:Pa., 190).

3. Luke 16:19-21.

4. See note 2 above for the Sherman-Ellsworth letter.

293 A-D. John Quincy Adams and William Cranch A Dialogue on the Constitution by Two Law Students

John Quincy Adams (1767-1848) and his cousin William Cranch (1769-1855) were graduated from Harvard College in July 1787. By early September both men had started to study law—Adams with Theophilus Parsons in Newburyport and Cranch with Thomas Dawes, Jr., in Boston. Parsons and Dawes became delegates to the Massachusetts Convention and voted to ratify the Constitution in February 1788.

Between 5 October and 8 December 1787, Cranch and Adams exchanged letters in which the former expressed his support for the Constitution while the latter voiced his opposition to it (CC:293 A-D). In January 1788 Cranch attended the debates in the Massachusetts Convention and became even more attached to the Constitution. He was certain that Adams would become a Federalist if he would also attend the debates (Cranch to Adams, 22-27 January, Adams Family Papers, MHi). Adams, however, maintained his objections to the Constitution until it was ratified by the Massachusetts Convention. In late January Adams referred to himself as "a strong *antifederalist*," but as ratification seemed certain he concluded that "any further opposition to it at present would be productive of much greater evils" (to Oliver Fiske, 31 January, Misc. Mss., MWA). When Adams heard that the Massachusetts Convention had ratified the Constitution, he wrote in his diary for 7 February that he had been "converted, though not convinced. My feelings upon the occasion have not been passionate nor violent, and as upon the decision of this question I find myself on the weaker side, I think it my duty to submit without murmuring against what is not to be helped. In our Government, opposition to the acts of a majority of the people is rebellion to all intents and purposes . . ." (Allen, *Adams Diary*, II, 357). Nine days later he declared himself "a strong *federalist*," but wrote that he "should make a poor disputant in favor of that side" (to Cranch, 16 February. In October 1982 the recipient's copy of this letter was owned

by the descendants of Mr. Eugene DuBois, Oyster Bay, N.Y. A nineteenth-century transcription, with minor variations, is in the Adams Family Papers, Charles Francis Adams Miscellany, Vol. 327, MHi.).

In July 1827 Cranch returned Adams's letters of 14 October and 8 December 1787 (CC:293 B, D) and one dated 16 February 1788. Adams noted in his diary: "The fortieth year is revolving since my own Letters were written; and now their best use is to teach me a lesson of humility, and of forbearance-I was so sincere, so earnest, so vehement in my opinions, and time has so crumbled them to dust, that I can now see them only as monumental errors-Yet the Spirit was such as even now I have no reason to disclaim-A Spirit of Patriotism of Order and of Benevolence" (9 July 1827, Adams Family Papers, John Quincy Adams Diary, MHi).

293-A. *William Cranch to John Quincy Adams*

Boston, 5 October¹

Why, John, do you complain of my unintelligibleness? Did I not tell you that I was going to write nonsense?-

But now a few queries concerning this said fœderal Constitution-We will pass the first & 2d section of Article 1st.-But concerning the Senate in section 3d. Quere 1st. Whether the division of the Senate be not making the Machine much more complicated, without deriveing a competent advantage. Where is the benefit of haveing 3 Classes? The senate I suppose is intended to be the aristocratic part of the Constitution. This is the most powerful branch of the Legislature. Perhaps this division is intended to Limit & confine their power, by changeing them so often as to prevent their forming any Combinations. I do not know but in this view it may be of advantage. But at present I cannot but think that it is a needless innovation upon the simplicity of the three orders.² If instead of diminishing by these means the power of the Senate, they had added to the power of the president by giving him an absolute negative upon the other two branches, it would in my humble opinion have made the Constitution much more simple. 2. Whether the President ought not to be able to defend himself from the encroachments and attacks of the other two branches. 2. [*sic*] Whether this can be done by any method except by giving him a negative. Sect 8. is very extensive. The powers therein granted to Congress are large & such as are necessary for the Connexion of the States. Would it not be better if the same President should be able to hold his Office for a longer time than 4 year out of eight or in some such way. The same person may now hold the Office as long as he lives if the people will choose him. And when a man has once got seated for 20 or 30 years it will be very difficult to turn him out. These are only a few of the objections which I might perhaps find in reading the Constitution over again. I have got but half thro yet. But it is now so dark that I can not see to write at all. I saw Charles this afternoon. Your Mother has sent a piece of Cloth for a Coat for you. My mother wishes to know whether you would have it sent-

293-B. *John Quincy Adams to William Cranch*
*Newburyport, 14 October*³

Since politics is the word, let politics rule the roast. I have now before me the plan for the federal constitution, and will at length discuss it with you;—your objections so far as they go may be valid or not, but mine, are not to any like particulars merely but to the whole plan itself—but as the objections to the whole can ~~only~~ arise, from summing those to its different parts, I will go through in order.

In the § 2. of Article 1. it is said that the representatives shall be chosen every second year by the people. but why every second year? why cannot the elections be annual? why may not the people of any state at any time recall their representatives, for misbehaviour, and send others? under these restrictions we have hitherto sent delegates to congress, and we have never found any inconveniency in consequence of them. Our delegation has always been exceeding good, and the people have never abused their power in this respect by recalling a member without sufficient cause: they have indeed never used it all; because it has never been necessary to use it. and where is the necessity of making alterations, where no defect is proved? It may be said there is an essential difference, between a member of congress at present who is elected by the legislature, and a representative, who will be elected by the people: This may be: but the probability is that they will be the same persons. Who does our legislature appoint as members of congress? Men of reputation, & influence; known all over the Commonwealth. And who else, can the people ever elect to serve as their representatives in a future congress?—

§ 4. Why must congress have the power of regulating the times, places, and manner of holding elections; or in other words, of prescribing the manner of their own appointments. This power is insidious, because it appears trivial, and yet will admit of such construction, as will render it a very dangerous instrument in the hands of such a powerful body of men.

§ 9. How will it be possible for each particular State to pay its debts, when the power of laying imposts or duties, on imports or exports, shall be taken from them—By direct taxes, it may be said. But such taxes are always extremely unpopular, and tend to oppress the poor people. Besides which the Congress ~~will~~ have power to lay & collect such taxes of this kind as they shall think proper, by which means the people, will naturally complain of being doubly taxed, and their grievances will become real instead of being imaginary, as they have been hitherto.

With respect to the Powers granted to the Congress in the 8th: § I cannot think with you, that they are necessary for preserving and main-

taining the union.—It is yet to be proved that such powers are necessary for any body of men at the head of the union; but if this point be admitted, it is a great uncertainty, whether such a Congress as is proposed ought to have these powers.—The Senate you say, is to be the aristocratic branch of the legislature.—It ought then, not only to be a body totally distinct from the house of representatives, but they ought to be men of a different description; men of more, influence, either from their, talents, reputation or opulence; but as I have already observed, the representatives chosen by the People, will be naturally men of the same kind and description with those chosen by the legislature; and consequently the two bodies of men will be too much alike, their interests will be too much united, for them to be the checks upon one another, which they are intended to be; their interests will be alike, but will they be the interests of the people? It is easy to answer this question in the affirmative; but not so easy perhaps to prove it. And if the interests of Congress and the interests of the people should ever greatly militate, what would be the consequences?—Can you without shuddering, answer this question?⁴

It is said that after all the powers of this Congress, are not more extensive than those of our State Legislature; and therefore that they are not more dangerous. In the first place I deny the fact, and in the second place, if that were true the conclusion would be false.—The sixth article of the Confederation is full of great restraints upon our State legislature, from which the Congress will be wholly exempted: every one of our sister States, is a powerful check upon our own legislature: but what checks would they be to the powers of our Congress? you might as well attempt with a fisherman's skiff to stem a torrent. but admit that the powers are the same; in whose hands are they deposited? In this state 400,000 men are represented by near 300. at Congress 3000,000 will be represented by 65. here there are 31 senators & 9 counsellors; there, there would be only 26 Senators.—will any one pretend to say that the same powers, would not be more dangerous in this Congress?

But to crown the whole the 7th: article, is an open and bare-faced violation of the most sacred engagements which can be formed by human beings. It violates the *Confederation*, the 13th: article of which I wish you would turn to, for a complete demonstration of what I affirm; and it violates the Constitution of this State, which was the only crime of our Berkshire & Hampshire insurgents.⁵

As a justification for this, it is said, that in times of great distress and imminent danger, the Constitution of any country whatever must give way; and that no agreements can be put in competition, with the existence, of a nation: but here, in order to apply this proposition, which is

undoubtedly true, two points are to be established: the first, that we are now in this tremendous situation, where our very national existence, is at a stake; the second that no better remedy can be found than that of a revolution.—The first it appears to me, no man in his Senses, can pretend to assert: our situation it is true is disagreeable; but it is confessedly growing better every day, and might very probably be prosperous in a few years without any alteration at all. but even if some alteration be *necessary*, where is the necessity of introducing a *despotism*, yes, a *despotism*: for if there shall be any limits to the power of the federal Congress, they will only be such as they themselves shall be pleased to establish.

These are my general objections to the scheme: they may be erroneous; or they may be not the most important: but I confess they are such as make me anxious for the fate of my country.—If you think me too presuming for mistrusting a plan proposed by men of so much experience and abilities, as are the members of the late convention, I can only say that my opinion depends not upon my will.—I will moreover confess to you that the defence of the Constitutions, is an authority in my mind, and has had considerable influence upon my opinions.—*Many* passages of that book, will, if true, make very much against the proposed constitution; and I fear the author will be not a little chagrined, when he finds what a revolution has taken place in the sentiments of his countrymen, within these seven years. However, if the federal Congress is to be established in the manner proposed, I can only say that my earnest wish is, that all my fears may be disappointed.

293-C. *William Cranch to John Quincy Adams*
*Braintree, 26 November*⁶

You may think me unpardonable perhaps for neglecting so long to answer your *political* letter of Octr 14th. And so indeed I am. But I do not intend to ask your pardon. Since you went from here last I have not had a time which I thought I could devote to the examination of the Constitution & to search the foundations of your objections. You consider the 2d section of Article 1. as wrong, because it does not make the Choice of Representatives annual. We must consider the Convention as being made up of delegates from every state, each having his local prejudices & each Adopting the form of Government of his own State as his rule of faith & Action at that time. The several State Constitutions are undoubtedly very different, especially in this Instance of Annual Elections of their Senators & Representatives. Some having biennial, some triennial, & some have one Election only in 4 years. We must consider that all these people of such different sentiments were to be brought

to agree upon something—and what more natural than that they should hit upon the medium of all? What reason is there that Elections should be annual or triennial, rather than biennial? None I presume, except you say that the oftener the better—in *that* Case, if they were chosen every six months or every week it would be better. But why the people of any state at any time may not recall their representatives for misbehaviour and send others, I cannot tell. I allow that objection to stand good. But I would make one Quere—Who would recall the Representatives? Must the people assemble again in the same manner as they did to choose them? If the Legislature had such a right, it would be putting the Choice into *their* hands & if the people had the right they would never be able to use it. It appears to me to be a right without a Remedy. That Congress should have the power of appointing the times of the Elections, appears to me very necessary. I mean the time of year & day of the month, that they might all meet at the same time. But *that might* have been made certain by the Constitution. But that they should have the power of appointing the places & manner, is to me, absurd. I have never heard what reasons they had for making that article. “How will it be possible for every state to pay its own debts”? Perhaps the Congress intend to pay our Debts from the *state continental treasury*.—You think the powers granted to Congress in the 8. § are not necessary to the preserving & maintaining the Union. 1. What means have the present Congress to discharge the Debt which they have contracted? None but idle & ineffectual recommendations—Ought they not to discharge that Debt? Your Commencement Oration says, Yes.⁷—Then it will follow that they ought to have *power* to discharge it. And that power must consist in “laying & collecting taxes duties, imposts & Excises.” 2. Ought they not to have the power of “borrowing money upon the Credit of the United States.” That power the *present* Congress have. 3. It is allow’d by every body that they ought to have power “To regulate Commerce.” 4. We want “an uniform Rule of naturalization & uniform laws on the subject of Bankruptcies.” 5. If they have the right of constituting a supreme Continental judicial Court they ought to have the power of forming inferior continental Courts. 6. Without the power “of raising & supporting armies” we should be without Defence & without the power of “providing & maintaining a navy” our shores would be expos’d to the continual attacks & depredations of pirates & Enemies. 7. Without “rules for the government & regulation of the land & naval forces,” they could not be subject to military discipline. 8. Without a power somewhere to “call forth the militia to execute the Laws of the union, suppress insurrections & repel invasions,” the laws would be of no force, we might be governed by a Mob & should be entirely unable to withstand

the sudden attacks of a foreign Enemy-9. The power of "organizing, arming & disciplining the militia" is to the same effect. 10. And if they had not power to "make all laws which shall be necessary & proper for carrying into effect execution the foregoing powers & all other powers vested by this Constitution in the Government of the United States, or in any Department or officer thereof," the powers would be of no service. I have consider'd the powers contain'd in the 8. § & they do appear to me absolutely necessary for the supporting, binding & confirming the Union. You say "it is a great uncertainty whether such a Congress as is proposed ought to have those powers." The plan of 3 powers or orders in Government is *consistent* with your father's Idea of a perfect Government. What he said under the head, Congress, in the "Defence &c." was written professedly in defence of the Constitutions of America as they were then. Where he mentions the jealousy of people in granting more powers to Congress, as laudible, he considers it as being laudible only as it is an error upon the *right side*.

You say that the Senate & Representatives are the same Order of men. Supposing that they are, being separate, they will be mutual Checks upon one another, as our Senate & house of Reps are. With regard to the number of Representatives, I would ask whether we send more than 10 members to the present Congress. And respecting the violation of the 13th. Article of the Confederation-Was not that article made by the majority of the people? & have not the majority of the people the same right to pass an Article repealing the 13th. Article?

293-D. *John Quincy Adams to William Cranch*
Newburyport, 8 December⁹

Your answers to the objections which in my last letter I started against the proposed form of Government, are ingenious and plausible yet I readily confess they have not convinced me: I will state the reasons which induce me to adhere to my former opinion, and wish you to reply; after which we shall have gone through a regular forensic, and then we may drop the subject, which will soon be discussed by the proper judges.

You say in answer to the objection to § 2 of Article 1. that we must make allowances for the local prejudices of the different gentlemen who framed the Constitution, and consider biennial elections, as a *medium* between those in the different state Constitutions. But I conceive the state constitutions are nothing to the purpose. The only question to be answered is, whether annual or biennial elections are the *best*. Now I conceive they ought to be annual for the security of the people. You argue that upon my principle the representatives ought to be chosen weekly; but may I not retort, and say that upon your's they ought to be

chosen for the longest possible term, to wit, for life? you allow the objection, to the inability of the people to recall their representatives, but quere—who would recall them? The people you say, (and you say truly) could not do it, and it would therefore be a right without a Remedy. this answer, I think rather fortifies than refutes my objection for, I contend that no government ought ever to be established, in this country which should deprive the people of this right, by rendering the remedy impracticable. You say “perhaps the *Congress intend* to pay our debts from the continental treasury.” but pray upon what foundation do you ground this conjecture? you cannot surely think that the *present* Congress will pay the state debts, since they cannot get money to pay the continental one. nor can you suppose that a Congress which is not yet in *esse*, *intend* any thing. I imagine therefore, you mean that the future Congress will perhaps pay these debts. but I ask whether such a conjecture is any security for the creditors of the States? do you usually find either an individual or a body of men, so eager to pay debts, which they are under no obligation to discharge? if you can name instances I will then admit the weight of the argument.—As to the powers granted to the Congress I objected to them only as they were indefinite; but I am more and more convinced, that a *continental* government, is incompatible with the liberties of the people. “The plan of three orders,” you say, “in government is consistent with my father’s Idea of a perfect government.” very true, but he does not say that such a government is practicable, for the whole continent. he does not even canvass the subject, but from what he says, I think it may easily be inferred that he would think such a government fatal to our liberties. But I am far from being convinced that upon the proposed project, the three orders would exist; it appears to me, that there would in fact be no proper representation of the people, and consequently no democratical branch of the constitution. It is impossible that *eight* men should represent the people of this Commonwealth. They will infallibly be chosen from the aristocratic part of the community, and the dignity, as well as the power of the people must soon dwindle to nothing.¹⁰—Blackstone Vol. 1. p. 159. supposes it necessary that the *commons* should be chosen, “by *minute*, and *separate* districts; wherein *all the voters*, are, or easily may be distinguished.”¹¹ Now if this Commonwealth be divided into eight districts, each of which shall elect one person will any one of these districts be minute? I wish if you have time you would again peruse the defence of the constitutions; it appears to me, there is scarcely a page in the book, which does not contain something that is applicable against this proposed plan: see particularly the 54th. Letter; one passage of which I will quote because it is very much to the purpose. “The liberty of the people *depends entirely* on

the *constant and direct communication* between them and the legislature, *by means of their representatives.*"¹² Now in this case, there could not possibly be any such communication; and this you yourself admit when you prove the inability of the people to recall their representatives even if the right should be given them.

You are mistaken I believe when you say the *jealousy* of the people is considered as an error on the right side. It is said "the *caution* of the people is much to be *applauded*;" and it is not usual to *applaud* an *error*, even if it be on the right side.

As to the 13th: article you ask whether it was not made by a *majority* of the people? if you enquire for information I can answer *no*. it was made by the whole people. The confederation did not take place till *all* the states had acceded to it; *Maryland* delayed the matter I think as much as two years longer than any of the other States, so that the confederation which was made in July 1778 was not ratified till March 1781. and thus upon your own argument, I say, that what was made by the *whole*, can with propriety be altered only by the *whole*.

In short, I must confess I am still of opinion that if this constitution is adopted, we shall go the way of all the world: we shall in a short time slide into an aspiring aristocracy, and finally tumble into an absolute monarchy, or else split into twenty separate and distinct nations perpetually at war with one another; which god forbid!

1. RC, Adams Family Papers, MHi. Adams received this letter on 9 October (Allen, *Adams Dairy*, II, 302).

2. The "three orders" refers to the three elements in a republican government—democratic, aristocratic, and monarchical—discussed in John Adams's *Defence of the Constitution* (CC:16). Acquainted with the *Defence*, Cranch had entitled his "Dissertation" at his Harvard graduation: "Upon the impossibility of civil liberty's long subsisting in a community, without three orders in the Government, vested with such powers as to be mutual checks upon and balances to each other" (*Massachusetts Centinel*, 21 July).

3. In October 1982 the recipient's copy of this letter was owned by the descendants of Mr. Eugene DuBois of Oyster Bay, N.Y. A nineteenth-century transcription, with minor variations, is in the Adams Family Papers, Charles Francis Adams Miscellany, Vol. 327, MHi.

4. On 12 October Adams noted in his diary that the Constitution "is calculated to increase the influence, power and wealth of those who have any already. If the Constitution be adopted it will be a grand point gained in favour of the aristocratic party: there are to be no titles of nobility; but there will be great distinctions; and those distinctions will soon be hereditary, and we shall consequently have nobles, but no titles. For my own part I am willing to take my chance under any government whatever, but it is hard to give up a System which I have always been taught to cherish, and to confess, that a free government is inconsistent with human nature" (Allen, *Adams Dairy*, II, 302-3).

5. Shays's Rebellion.

6. RC, Adams Family Papers, MHi.

7. In his commencement address, Adams made a strong plea for the payment of the debt so that national honor and integrity would be restored. He pointed to Great Britain

as a nation to be admired because of its willingness to pay "an enormous debt." For the text of the oration which was entitled "Upon the importance and necessity of public faith, to the well-being of a Community," see Allen, *Adams Diary*, II, 258-63.

8. Cranch refers to Letter LIII, "CONGRESS," found in Volume I of the *Defence*. Most of this letter was reprinted in the *New York Daily Advertiser* on 9 May and in fifteen other newspapers by 15 October (CC:16-B).

9. See note 3 above. In his diary, Adams stated that he wrote this letter on 9 December (Allen, *Adams Diary*, II, 327).

10. For Adams's view that the Constitution was an aristocratic document, see note 4 above.

11. Blackstone, *Commentaries*, Book I, chapter II, 159. The italics are Adams's. As part of his law studies, Adams read and took copious notes on the *Commentaries* from 24 September to 12 December. He described the *Commentaries* as "one of the most important books in the profession" (Allen, *Adams Diary*, II, 293, 300, 319, 328).

12. The italics are Adams's. Letter LIV is entitled "LOCKE, MILTON, AND HUME." See Volume I, page 371.

294. Louis Guillaume Otto to Comte de Montmorin New York, 26 November¹

I received Dispatch No. 4. which You did me the honor of writing to me on the 31. of last August. The indulgence with which You deigned to receive my last reports can only encourage me to redouble my zeal and diligence.

The debates, My Lord, for and against the new Constitution continue to absorb public attention and while the individual States are preparing to call conventions in order to adopt or reject this new plan, the two parties abuse each other in the public papers with a rancor which sometimes does not even spare insults and personal invectives. As in these sorts of political commotions, the men and the issues usually disguise themselves so as to become unrecognizable, the partisans of the innovation are called *Federalists* and the others more commonly *Whigs*, although neither of these names has a direct relation to the object in question. This spirit of argument is even pushed to intolerance in regard to foreigners and they absolutely want us to take a side for or against the new Constitution. Some politicians trying to be shrewder than others have even suggested that this Constitution was bad since it was approved by foreign Ministers. According to one side Despotism will be the necessary consequence of the proposed Constitution; according to the others the united States will reach the summit of glory and power with this same Constitution. Indifferent Spectators agree that the new form of Government, well executed will be able to produce good results; but they also think that if the states really had the desire to be united the present Confederation would be adequate for all their needs. Meanwhile they are unable to conceal that after having excited this general ferment there is no longer a means to stop it, that the old edifice is almost

destroyed, and that any fabric whatsoever must be substituted for it. In effect it was impossible to carry out a more violent coup to the authority of Congress, than in saying to all America, to the entire Universe, that this body is inadequate to the needs of the Confederation and that the united States have become the laughingstock of all the powers. This principle repeated over and over by all the Innovators seems as false as their spirits are excited; the united States held the place among nations which their youth and means assigned them; they are neither rich enough, populated enough, nor well established enough to appear with more luster and perhaps one ought to reproach them only for the impatience of anticipating their future grandeur.

The new Congress is not yet formed, My Lord; the delegates are arriving slowly and their deliberations will not be very important before the different States have given their opinions on the proposed Government. The task of this Assembly will then become very delicate; it will have to weigh without prejudice the opinions and modifications of the individual States, to judge if nine Members of the Confederation have indeed consented to it and to fix the time of the Elections for the new sovereign body. This process can only take place towards the middle of the following year if it can however be hoped to gather the vote of nine States.

That of Pennsylvania, My Lord, was the most eager to elect Delegates to examine the Constitution. The Federalists there have a majority of two to one and although their deliberations have not yet ended it can almost be foreseen that the Constitution will be adopted. Other States are putting more circumspection and calmness into their proceedings; several Counties have even specifically recommended to their Delegates to examine the new plan in the greatest detail and not to allow themselves to be carried away by party spirit always detrimental in general affairs.

Until now only Virginia has articulated plausible reasons not to accede to it. One of the first measures proposed by the new Government would probably be the writing of a navigation act. The aim of this act could only be to give Americans a special advantage and perhaps an exclusive right in the exportation of tobacco and as the Virginians are hardly sailors they would find themselves entirely at the mercy of the New England States which have been up to now the Peddlers for the Southerners. The competition of foreign nations would be banished from the new system and tobacco being much more susceptible of being taxed than commodities from other States, Virginia would certainly pay the largest portion of public revenue. It seems to be in the interest of Virginia to attract all the commercial nations to its ports, but it is

important to the Northern States to insist on an exclusive navigation and they would almost always be in a large majority in the future Congress.

Be that as it may, My Lord, it still appears that only a foreign stimulus can restore energy to the federal Government, in whatever form is considered appropriate to reproduce it. The assessment of taxes and duties will be the stumbling block that will make the most well thought out plans fail unless the sudden appearance of an Enemy and an imminent danger rekindles that spirit of unanimity that formerly produced such grand results. But as this revolution is not absolutely necessary it would be unfortunate to buy possible advantages with real calamities.

1. RC (Tr), Correspondance Politique, États-Unis, Vol. 32, ff. 401-4, Archives du Ministère des Affaires Étrangères, Paris, France.

295. A Landholder IV Connecticut Courant, 26 November

“Landholder” IV was a response to Elbridge Gerry’s letter of 18 October to the Massachusetts General Court enumerating his reasons for not signing the Constitution. Gerry’s letter, printed in the *Massachusetts Centinel* on 3 November (CC:227-A), was reprinted in the *Connecticut Courant* and *Hartford American Mercury* on 12 November. The *Courant* (and the *Mercury* with slight variations) prefaced the letter: “The Landholder is happy in informing the public that the Hon. Elbridge Gerry, member of Convention from Massachusetts, has at length published the reasons on which he opposed the new Constitution. As this great subject deserves discussion, we wish the Printers in this State to give them a place in their papers. When this is done his objections shall be considered.” Two weeks later “Landholder” IV was printed in the *Courant* and, with slight variations, in the *Mercury* on 26 November. It was reprinted nine times by 4 January 1788: Mass. (3), R.I. (1), Conn. (3), Pa. (1), Md. (1).

Gerry’s objections were also criticized in “Landholder” V and VIII on 3 and 24 December (CC:316, 371). Gerry responded to “Landholder” in the *Massachusetts Centinel* on 5 January 1788, but no Connecticut newspaper reprinted this response.

For a discussion of the authorship, circulation, and impact of “Landholder,” see CC:230.

To the Landholders and Farmers.
Remarks on the objections made by the Hon. ELBRIDGE GERRY,
to the new Constitution.

To censure a man for an opinion in which he declares himself honest, and in a matter of which all men have a right to judge, is highly injurious; at the same time, when the opinions even of honourable men are submitted to the people, a tribunal before which the meanest citizen hath a right to speak, they must abide the consequence of public stricture. We are ignorant whether the honorable gentleman possesses state dignities or emoluments which will be endangered by the new system, or hath motives of personality to prejudice his mind and throw him into

the opposition; or if it be so, do not wish to evade the objections by such a charge. As a member of the general Convention, and deputy from a great state, this honorable person hath a right to speak and be heard. It gives us pleasure to know the extent of what may be objected or even surmised, by one whose situation was the best to espy danger, and mark the defective parts of the constitution, if any such there be. Mr. Gerry, tho' in the character of an objector, tells us "he was fully convinced that to preserve the union an efficient government was indispensibly necessary, and that it would be difficult to make proper amendments to the old articles of confederation" therefore by his own concession there was an indispensable necessity of a system, in many particulars entirely new. He tells us further "that if the people reject this altogether, anarchy may ensue" and what situation can be pictured more awful than a total dissolution of all government. Many defects in the constitution had better be risked than to fall back into that state of rude violence, in which every man's hand is against his neighbour, and there is no judge to decide between them or power of justice to control. But we hope to shew that there are no such alarming defects in the proposed structure of government, and that while a public force is created, the liberties of the people have every possible guard.

Several of the honorable Gentleman's objections are expressed in such vague and indecisive terms, that they rather deserve the name of insinuations, and we know not against what particular parts of the system they are pointed. Others are explicit, and if real deserve serious attention. His first objection is "that there is no adequate provision for a representation of the people". This must have respect either to the number of representatives, or to the manner in which they are chosen. The proper number to constitute a safe representation is a matter of judgment, in which honest and wise men often disagree. Were it possible for all the people to convene and give their personal assent, some would think this the best mode of making laws, but in the present instance it is impracticable. In towns and smaller districts where all the people may meet conveniently and without expence this is doubtless preferable. The state representation is composed of one or two from every town and district, which composes an assembly not so large as to be unwieldy in acting, nor so expensive as to burden the people. But if so numerous a representation were made from every part of the United States, with our present population, the new Congress would consist of three thousand men; with the population of Great Britain to which we may arrive in half a century, of ten thousand; and with the population of France, which we shall probably equal in a century and half, of thirty thousand.

Such a body of men might be an army to defend the country in case of foreign invasion, but not a legislature, and the expence to support them would equal the whole national revenue. By the proposed constitution the new Congress will consist of nearly one hundred men. When our population is equal to Great Britain of three hundred men, and when equal to France of nine hundred. Plenty of Lawgivers! why any gentleman should wish for more is not conceivable.

Considering the immense territory of America, the objection with many will be on the other side; that when the whole is populated it will constitute a legislature unmanagable by its numbers. Convention foreseeing this danger, have so worded the article, that if the people should at any future time judge necessary, they may diminish the representation.

As the state legislatures have to regulate the internal policy, of every town and neighbourhood, it is convenient enough to have one or two men, particularly acquainted with every small district of country, its interests, parties and passions. But the fœderal legislature can take cognizance only of national questions and interests, which in their very nature are general, and for this purpose five or ten honest and wise men chosen from each state; men who have had previous experience in state legislation, will be more competent than an hundred. From an acquaintance with their own state legislatures, they will always know the sense of the people at large, and the expence of supporting such a number will be as much as we ought to incur.

If the Hon. gentleman, in saying "there is no adequate provision for a representation of the people" refers to the manner of choosing them, a reply to this is naturally blended with his second objection "that they have no security for the right of election" it is impossible to conceive what greater security can be given, by any form of words, than we here find.

The federal representatives are to be chosen by the votes of the people. Every freeman is an elector. The same qualifications which enable you to vote for state representatives, give you a federal voice. It is a right you cannot lose, unless you first annihilate the state legislature, and declare yourselves incapable of electing, which is a degree of infatuation improbable as a second deluge to drown the world.

Your own assemblies are to regulate the formalities of this choice, and unless they betray you, you cannot be betrayed. But perhaps it may be said, Congress have a power to control this formality as to the time and places of electing, and we allow they have: But this objection which at first looks frightful was designed as a guard to the privileges of the elec-

tors. Even state assemblies may have their fits of madness and passion, this tho' not probable is still possible.

We have a recent instance in the state of Rhode-Island, where a desperate junto are governing, contrary to the sense of a great majority of the people. It may be the case in any other state, and should it ever happen, that the ignorance or rashness of the state assemblies, in a fit of jealousy should deny you this sacred right, the deliberate justice of the continent, is enabled to interpose, and restore you a federal voice. This right is therefore more inviolably guarded than it can be by the government of your state, for it is guaranteed by the whole empire. Tho' out of the order in which the Hon. gentleman proposes his doubts, I wish here to notice some questions which he makes. The proposed plan among others he tells us involves these questions "whether the several state governments, shall be so altered as in effect to be dissolved? Whether in lieu of the state governments the national constitution now proposed shall be substituted?"¹ I wish for sagacity to see on what these questions are founded. No alteration in the state governments, is even proposed, but they are to remain identically the same that they now are. Some powers are to be given into the hands of your federal representatives, but these powers are all in their nature general, such as must be exercised by the whole or not at all, and such as are absolutely necessary; or your commerce, the price of your commodities, your riches and your safety will be the sport of every foreign adventurer. Why are we told of the dissolution of our state governments, when by this plan they are indissolubly linked. They must stand or fall, live or die together. The national legislature consists of two houses, a senate and house of Representatives. The senate is to be chosen by the assemblies of the particular states; so that if the assemblies are dissolved, the senate dissolves with them. The national representatives are to be chosen by the same electors, and under the same qualifications, as choose the state representatives; so that if the state representation be dissolved, the national representation is gone of course.

State representation and government is the very basis of the congressional power proposed. This is the most valuable link in the chain of connexion, and affords double security for the rights of the people. Your liberties are pledged to you by your own state, and by the power of the whole empire. You have a voice in the government of your own state, and in the government of the whole. Were not the gentleman on whom the remarks are made very honourable, and by the eminence of office raised above a suspicion of cunning, we should think he had, in this instance, insinuated merely to alarm the fears of the people. His other

objections will be mentioned in some future number of the LAND-HOLDER.

1. In Gerry's letter this sentence reads: "Whether in lieu of the *federal* and *State* Governments, the *national* Constitution now proposed shall be substituted without amendment?"

296. Samuel A. Otis to James Warren
New York, 27 November (excerpts)¹

. . . Your next probable question will be how go you on in Congress? To which I reply there is no Congress. Nor like to be before Xmas—New hamshire Mr. Gilman, Massachusetts is represented, Connecticut have chosen but not here, R Island dont know whether chosen or not, N York dont chuse until the next month, N Jersy have no acct of, Pensilvania have chosen and only one Member G Armstrong present, Maryland No Members here, Verginia represented by Mr Carrington, and Mr Maddison, Delaware N & S Carolina & Georgia not represented. Indeed I think some states either from a zeal for New Government, Or indifferent about a longer Confederation upon any plan, voluntarily negle[c]t sending on their Members—but this upon every principle is wrong. If the confederation ceases, puissant as any state may feel itself, I think its independence is at an end. If they prefer the Confederation upon the old, or rather present plan, they certainly ought to keep up their representation, And if they are zealous for the *new plan*, They ought to send their delegates to prepare the way, & I had like to have said make the paths straight before it. But I have no expectation of a speedy adoption of the *New System*. New hamshr I can give no acct of, Massachusetts & R Island No Connecticut Yea, N York No, N Jersy doubt, Pensilvania & Delaware Yea, Maryland & Verginia No, No & So Carolina Yea, Georgia No, at least these are my probable conjectures upon each state from present appearances Verginia have not even called a Convention until May,² And will the United states be content with an absolute suspension of Government until after may? My present opinion is that the executives of such governments as are [not] represented [in Congress], should remonstrate where the legislatures are not setting. For no man with a spark of national pride, Sure no man who is ostensible in the public line, but must feel mortified at the derangement of our public affairs. . . .

[P.S.] Pray write me all the news, the Speculations upon important incidents, Upon Constitution &c but above all your own reasonings upon things as they occur—

1. RC, Mercy Warren Papers, MHi. Printed: Massachusetts Historical Society *Proceedings, 1911-1912*, XLV (1912), 479-81. Samuel A. Otis (1740-1814) of Boston repre-

sented Massachusetts in Congress in 1787 and 1788. He was defeated for election to the U.S. House of Representatives in 1788. In 1789 Otis was appointed secretary of the U.S. Senate, a position he held until his death. Otis' sister, Mercy, was Warren's wife.

2. Virginia called its convention for the first Monday in June 1788.

297. Publius: The Federalist 12

New York Packet, 27 November

This essay was written by Alexander Hamilton. It was reprinted in the *New York Independent Journal*, 28 November; *New York Daily Advertiser*, 29 November; *Pennsylvania Gazette*, 23 January 1788; and *Albany Gazette*, 31 January.

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

The FEDERALIST, No. 12.

To the People of the State of New-York.

The effects of union upon the commercial prosperity of the States have been sufficiently delineated. Its tendency to promote the interests of revenue will be the subject of our present enquiry.

The prosperity of commerce is now perceived and acknowledged, by all enlightened statesmen, to be the most useful as well as the most productive source of national wealth; and has accordingly become a primary object of their political cares. By multiplying the means of gratification, by promoting the introduction and circulation of the precious metals, those darling objects of human avarice and enterprise, it serves to vivify and invigorate the channels of industry, and to make them flow with greater activity and copiousness. The assiduous merchant, the laborious husbandman, the active mechanic, and the industrious manufacturer, all orders of men look forward with eager expectation and growing alacrity to this pleasing reward of their toils. The often-agitated question, between agriculture and commerce, has from indubitable experience received a decision, which has silenced the rivalships, that once subsisted between them, and has proved to the satisfaction of their friends, that their interests are intimately blended and interwoven. It has been found, in various countries, that in proportion as commerce has flourished, land has risen in value. And how could it have happened otherwise? Could that which procures a free vent for the products of the earth—which furnishes new incitements to the cultivators of land—which is the most powerful instrument in encreasing the quantity of money in a state—could that, in fine, which is the faithful handmaid of labor and industry in every shape, fail to augment the value of that article, which is the prolific parent of far the greatest part of the objects upon which they are exerted? It is astonishing, that so simple a truth should ever have had an adversary; and it is among a multitude of proofs, how apt a spirit of ill-informed jealousy, or of too great

abstraction and refinement is to lead men astray from the plainest paths of reason and conviction.

The ability of a country to pay taxes must always be proportioned, in a great degree, to the quantity of money in circulation, and to the celerity with which it circulates. Commerce, contributing to both these objects, must of necessity render the payment of taxes easier, and facilitate the requisite supplies to the treasury. The hereditary dominions of the Emperor of Germany, contain a great extent of fertile, cultivated and populous territory, a large proportion of which is situated in mild and luxuriant climates. In some parts of this territory are to be found the best gold and silver mines in Europe. And yet, from the want of the fostering influence of commerce, that monarch can boast but slender revenues. He has several times been compelled to owe obligations to the pecuniary succours of other nations, for the preservation of his essential interests; and is unable, upon the strength of his own resources, to sustain a long or continued war.

But it is not in this aspect of the subject alone, that union will be seen to conduce to the purposes of revenue. There are other points of view, in which its influence will appear more immediate and decisive. It is evident from the state of the country, from the habits of the people, from the experience we have had on the point itself, that it is impracticable to raise any very considerable sums by direct taxation. Tax laws have in vain been multiplied—new methods to enforce the collection have in vain been tried—the public expectation has been uniformly disappointed, and the treasures of the States have remained empty. The popular system of administration, inherent in the nature of popular government, coinciding with the real scarcity of money, incident to a languid and mutilated state of trade, has hitherto defeated every experiment for extensive collections, and has at length taught the different Legislatures the folly of attempting them.

No person, acquainted with what happens in other countries, will be surprised at this circumstance. In so opulent a nation as that of Britain, where direct taxes from superior wealth, must be much more tolerable, and from the vigor of the government, much more practicable, than in America, far the greatest part of the national revenue is derived from taxes of the indirect kind; from imposts and from excises. Duties on imported articles form a large branch of this latter description.

In America it is evident, that we must a long time depend, for the means of revenue, chiefly on such duties. In most parts of it, excises must be confined within a narrow compass. The genius of the people will ill brook the inquisitive and peremptory spirit of excise laws. The pockets of the farmers, on the other hand, will reluctantly yield but scanty

supplies in the unwelcome shape of impositions on their houses and lands. And personal property is too precarious and invisible a fund to be laid hold of in any other way, than by the imperceptible agency of taxes on consumption.

If these remarks have any foundation, that state of things, which will best enable us to improve and extend so valuable a resource, must be best adapted to our political welfare. And it cannot admit of a serious doubt, that this state of things must rest on the basis of a general union. As far as this would be conducive to the interests of commerce, so far it must tend to the extension of the revenue to be drawn from that source. As far as it would contribute to rendering regulations for the collection of the duties more simple and efficacious, so far it must serve to answer the purposes of making the same rate of duties more productive, and of putting it in the power of the government to increase the rate, without prejudice to trade.

The relative situation of these States, the number of rivers, with which they are intersected, and of bays that wash their shores, the facility of communication in every direction, the affinity of language and manners, the familiar habits of intercourse; all these are circumstances, that would conspire to render an illicit trade between them, a matter of little difficulty, and would insure frequent evasions of the commercial regulations of each other. The separate States, or confederacies would be necessitated by mutual jealousy to avoid the temptations to that kind of trade, by the lowness of their duties. The temper of our governments, for a long time to come, would not permit those rigorous precautions, by which the European nations guard the avenues into their respective countries, as well by land as by water; and which even there are found insufficient obstacles to the adventurous stratagems of avarice.

In France there is an army of patrols (as they are called) constantly employed to secure their fiscal regulations against the inroads of the dealers in contraband trade. Mr. *Neckar* computes the number of these patrols at upwards of twenty thousand.¹ This shews the immense difficulty in preventing that species of traffic, where there is an inland communication, and places in a strong light the disadvantages with which the collection of duties in this country would be encumbered, if by disunion the States should be placed in a situation, with respect to each other, resembling that of France with respect to her neighbours. The arbitrary and vexatious powers with which the patrols are necessarily armed would be intolerable in a free country.

If on the contrary, there be but one government pervading all the States, there will be as to the principal parts of our commerce but ONE

SIDE to guard, the ATLANTIC COAST. Vessels arriving directly from foreign countries, laden with valuable cargoes, would rarely choose to hazard themselves to the complicated and critical perils, which would attend attempts to unlade prior to their coming into port. They would have to dread both the dangers of the coast, and of detection as well after as before their arrival at the places of their final destination. An ordinary degree of vigilance would be competent to the prevention of any material infractions upon the rights of the revenue. A few armed vessels, judiciously stationed at the entrances of our ports, might at a small expence be made useful centinels of the laws. And the government having the same interests to provide against violations every where, the co-operation of its measures in each State would have a powerful tendency to render them effectual. Here also we should preserve by union an advantage which nature holds out to us, and which would be relinquished by seperation. The United States lie at a great distance from Europe, and at a considerable distance from all other places with which they would have extensive connections of foreign trade. The passage from them to us, in a few hours, or in a single night, as between the coasts of France and Britain, and of other neighbouring nations, would be impracticable. This is a prodigious security against a direct contraband with foreign countries; but a circuitous contraband to one State, through the medium of another, would be both easy and safe. The difference between a direct importation from abroad and an indirect importation, through the channel of a neighbouring State, in small parcels, according to time and opportunity, with the additional facilities of inland communication, must be palpable to every man of discernment.

It is therefore, evident, that one national government would be able, at much less expence, to extend the duties on imposts, beyond comparison further, than would be practicable to the States separately, or to any partial confederacies: Hitherto I believe it may safely be asserted, that these duties have not upon an average exceeded in any State three per cent. In France they are estimated to be about fifteen per cent. and in Britain they exceed this proportion.^(a) Their seems to be nothing to hinder their being increased in this country, to at least treble their present amount. The single article of ardent spirits, under Foederal regulation, might be made to furnish a considerable revenue. Upon a ratio to the importation into this State, the whole quantity imported into the United States may be estimated as four millions of Gallons; which at a shilling per gallon would produce two hundred thousand pounds. That article would well bear this rate of duty; and if it should tend to diminish the consumption of it, such an effect would be equally favorable to the agriculture, to the œconomy, to the morals and to the health of the

society. There is perhaps nothing so much a subject of national extravagance, as these spirits.

What will be the consequence, if we are not able to avail ourselves of the resource in question in its full extent? A nation cannot long exist without revenues. Destitute of this essential support, it must resign its independence and sink into the degraded condition of a province. This is an extremity to which no government will of choice accede. Revenue therefore must be had at all events. In this country, if the principal part be not drawn from commerce, it must fall with oppressive weight upon land. It has been already intimated, that excises in their true signification are too little in unison with the feelings of the people, to admit of great use being made of that mode of taxation, nor indeed, in the States where almost the sole employment is agriculture, are the objects, proper for excise sufficiently numerous to permit very ample collections in that way. Personal estate, (as has been before remarked) from the difficulty of tracing it cannot be subjected to large contributions, by any other means, than by taxes on consumption. In populous cities, it may be enough the subject of conjecture, to occasion the oppression of individuals, without much aggregate benefit to the State; but beyond these circles it must in a great measure escape the eye and the hand of the tax-gatherer. As the necessities of the State, nevertheless, must be satisfied, in some mode or other, the defect of other resources must throw the principal weight of the public burthens on the possessors of land. And as, on the other hand, the wants of the government can never obtain an adequate supply, unless all the sources of revenue are open to its demands, the finances of the community under such embarrassments, cannot be put into a situation consistent with its respectability, or its security. Thus we shall not even have the consolations of a full treasury to atone for the oppression of that valuable class of the citizens, who are employed in the cultivation of the soil. But public and private distress will keep pace with each other in gloomy concert; and unite in deploring the infatuation of those councils, which led to disunion.

(a) *If my memory be right they amount to 20 per cent.*

1. Jacques Necker, *De L'Administration des Finances de La France* (3 vols., [Paris?], 1785), I, chapter VIII, 247. Necker's work was first published in 1784.

298. Hugh Hughes to Charles Tillinghast
28 November (excerpts)¹

My dear Friend,

. . . If it be Erastus Wolcot that is opposed to the N Constitution, his Influence is not equal to his Brother Oliver, who lives at Litchfield, and

is, I believe, at this Time, their Lieut. Governor-Erastus lives near Hartford, and has an Influence also, but nothing like Oliver's²-General Wadsworth has his Circle; but it is not a very extensive one, unless lately made so³-However, I am told that the Opposition gains Strength daily, and Col. Platt Cooke, of Danbury, and late a Delegate to Congress is much opposed to the new Form.⁴

I will venture to predict that our common Friend T. P. is rather in Favour of the New Government-If he is not, I shall be greatly, and agreeably disappointed⁵

I am very glad that the Boston Presses are at Liberty⁶-Samuel Adams I expected would be opposed to it [i.e., the Constitution],⁷ but I verily believe John to be in the Secret, and that his Letters were written with a View to promote the Design of changing our Government⁸

Are you not wrong as to the Author of Brutus⁹-I supposed him to have been Brutus Junior¹⁰ & Mr. A Y.¹¹ to have been the Author of Brutus-The federal Farmer,¹² I think I am sure of, as one of the Letters contains some Part of a Conversation I once had, when I spent an Evening with him-Perhaps this may bring him to your Memory-If not, please to observe the first Part of the 2nd Paragraph in the 7th Page, and you will recollect, I expect, as I told you that he was perfectly in Sentiment with me on that Subject-I think he has great Merit, but not as much as he is capable of meriting-But, perhaps, he reserves himself for another Publication; if so, it may be all very right-I wish you and Miles¹³ to run the C---n¹⁴ over, before it goes to Press. . . .

NB. If you have any thing to send, that is, Letters or Papers, the Bearer will take Charge of them, which will save a Trip to the Landing.

1. RC, Misc. MSS, Hugh Hughes Folder, NH. The place of writing does not appear on the letter, but it was probably written at Hughes's farm in Dutchess County, N.Y.

2. Erastus Wolcott (1721-1793) of East Windsor was a member of the Connecticut Council and a judge of the Hartford County Court. In May 1787 he refused election to the Constitutional Convention. Oliver Wolcott, Sr. (1726-1797) of Litchfield served as lieutenant governor of Connecticut from 1786 to 1796. Both men were members of the state Convention and voted to ratify the Constitution in January 1788.

3. James Wadsworth (1730-1817) of Durham was a member of the Connecticut Council, the state comptroller, and a judge of the New Haven County Court. He was Connecticut's most prominent Antifederalist, and he voted against ratification of the Constitution in the state Convention in January 1788.

4. Joseph Platt Cooke (1729/30-1816) of Danbury was a member of the Connecticut Council. As a delegate to Congress in September 1787 he voted to transmit the Constitution to the states. On 23 December Jeremiah Wadsworth described Cooke as "a Man openly opposed to the Constitution" (RCS:Conn., 501).

5. For Timothy Pickering's support of the Constitution, see CC:288-C.

6. For the Boston press and the Constitution, see CC:131.

7. For Samuel Adams's opposition to the Constitution, see CC:315.

8. A reference to John Adams's *Defence of the Constitutions* (CC:16).

9. For the authorship of "Brutus," see CC:178.

10. For "Brutus, Junior," see CC:239.

11. Abraham Yates (1724-1796) of Albany, N.Y., was a delegate to Congress. He wrote against the Constitution under such pseudonyms as "Rough Hewer," "Sidney," and "Sydney."

12. For the authorship of the "Federal Farmer," see CC:242.

13. James Miles Hughes (c. 1757-1802), Hugh Hughes's son, was a New York City lawyer.

14. Hughes refers to one of his "Countryman" essays, possibly number III which was printed on 3 December. In all, Hughes published six "Countryman" essays in the *New York Journal* between 21 November 1787 and 14 February 1788.

299. Virginia Independent Chronicle, 28 November¹

Extract of a letter from a well informed correspondent, to his friend in this City, on the subject of the proposed Fœderal Constitution.

"I feel myself enabled to communicate to you, in adequate language, the exalted opinion which I entertain of the proposed Fœderal Government. When I declare, that it is, in my humble opinion, the most perfect system, that ever was presented to mankind for their adoption, I barely do it justice; it is a system of government, the prototype of which is in Heaven. Had the ancient *legislator* received such a government, from his supposed *goddess*, he might, with some degree of propriety have imposed it on the world as partaking of divine descent. The *British* constitution is supposed to be superior to every other government in the world; it is the favorite boast of its subjects;-it is the admiration of *Europe*:-But compare the *Fœderal Constitution* with this *highly extolled government*, and you will find its excellencies eclipsed, like the faint lustre of the *moon*, by the dazzling splendor of the *sun*. That such a system of government could be invented by the human mind, unassisted by divine inspiration, excites my astonishment; but when I consider the heterogeneous materials from which it was composed, my admiration knows no bounds. Was this the last moment of my existence, I call Heaven to witness, that I would employ my expiring breath in recommending it to my surrounding friends, as a constitution eminently calculated to promote the happiness, the grandeur and importance of America, until time shall be no more.

"Permit me now, Sir, to reply, in as concise a manner as possible, to some objections, which have been made, by different anonymous writers, to the Fœderal Government. Should these objections upon examination be found defective-Should they appear to be the distorted phantoms of a gloomy or wicked imagination,-let us reject them, my friend, with abhorrence, and let us consider the man, who will advance them, as an enemy to society and to public happiness.

“It is said that the Fœderal Government ‘if established will annihilate the legislatures of each state, and like Aarons serpent, swallow up the whole.’² I will venture to assert there is nothing less true. A few reflections will be sufficient to ascertain this point, and to establish, beyond a doubt, the reverse. The senate is composed of two members from each state, chosen by their respective legislators. Now, if there is no legislator, there can be no senate, consequently no Fœderal Government. The President is elected by persons nominated by the legislature of each state. Now, if there is no legislature, there can be no nomination; hence it is plain, that there can be no President. The House of Representatives is to be composed of members chosen every second year by the people of the several states, and the electors in each state must have the qualifications requisite for the electors of the most numerous branch of the state legislature. Now, if there is no legislature, the qualifications requisite for electors cannot be ascertained; and surely, Sir, it is pretty evident, that a House of Representatives cannot be otherwise chosen. From this plain and impartial state of the case, you must be convinced, that the Fœderal Government cannot exist without the concomitant existence of each legislature. They are inseparably connected. But why should I multiply words. It is a truth so obvious as to leave no room for discussion. It must flash conviction on every unprejudiced mind, and every virtuous bosom must swell with indignation, when objections, which have originated in ignorance, are obtruded to prevent the immediate adoption of a government so effectually calculated for our preservation.

“Great apprehensions are entertained from the general establishment of an excise law. It is considered as too dangerous an instrument to be put into the hands of Congress. But these apprehensions, Sir, are absurd. They originate from trifles, light as air: They exist only in idea. Excise laws are no more violations of the rights of the people than any other laws, and they may be as safely executed. In Pennsylvania excise laws have long prevailed. It was the original mode of taxation, practised by as virtuous a legislature as ever was delegated, to raise money for the support of government. To execute it, no standing army was thought necessary. No man’s house was broke open. The rights and properties of the people were not outraged. On the contrary, it was submitted to without murmuring, executed without violence; and I challenge any man to mention a single instance in which any individual was injured in that state by the operation of an excise law for near one hundred years. Why, then, may we not intrust Congress with the power of establishing excise laws and regulating the operation of them? Why may not excise laws be executed with the same safety and same convenience by

officers appointed by Congress, as it has been in the state of Pennsylvania by officers appointed by its legislature? In the framing of the law, is it not to be presumed, that Congress will as cautiously preserve the property of the people from the depredation of excise officers, as the legislature of Pennsylvania has preserved the property of its subjects, from the depredations of its excise officers? Will not Congress constitute the aggregate body of the people? Will it not contain the collective wisdom of the states? Will it not be composed of men eminent for their talents, of unspotted integrity and inflexible virtue?—As the United States will be represented in Congress as equally as the several counties in this state are in their present Assembly, why may not each state intrust Congress with certain powers as safely as each county intrusts the Assembly? (And will not each state be subject to the operation of the same laws enacted by Congress, in the same manner as each county in this state is by laws enacted by the Assembly?) What danger ought we then to apprehend? I feel an attachment to my country approaching nearly to enthusiasm, and as long as I have a heart or a hand I will vigorously oppose every measure, that might tend to injure it. You know, Sir, the warmth of my disposition and the ardent love, which I have from the first dawn of reason invariably possessed for my country. You, then, Sir, will acquit me of every sinister design, when I solemnly declare to you with my hand upon my heart, that, in my humble opinion no danger ought to be apprehended or will issue from the establishment and operation of a general excise law.

“The judicial powers of the Fœderal Courts have, also, been grossly misrepresented. It is said ‘that the trial by jury is to be abolished, and that the courts of the several states are to be annihilated.’ But these, Sir, are mistaken notions, scandalous perversions of truth. The courts of judicature in each state will still continue in their present situation. The trial by jury in all disputes between man and man in each state will still remain inviolate, and in all cases of this description, there can be no appeal to the Fœderal Courts. It is only in particular specified cases, of which each state cannot properly take cognizance, that the judicial authority of the Fœderal Courts can be exercised. Even in the congressional courts of judicature, the trial of all crimes except in cases of impeachment, shall be by jury. How then can any man say that the trial by jury will be abolished, and that the courts of the several states will be annihilated by the adoption of the Fœderal Government? Must not the man who makes this assertion be either consummately impudent, or consummately ignorant? My God! what can he mean by such bareface representations? Can he be a friend to his country? Can he be the friend to the happiness of mankind? Is he not some insidious foe? Some emis-

sary, hired by *British Gold*—plotting the ruin of both, by disseminating the seeds of suspicion and discontent among us?

“There is another objection that is calculated to alarm the people and prejudice them against a government, which I cannot forebear thinking, has certainly received the solemn sanction of Heaven. I mean a standing army. From the peculiar situation of the United States, a standing army is essentially necessary. Do not suppose, Sir, that I apprehend an European war, with us. This I think is not very probable, provided the Fœderal Government is established. But a standing army will be required to protect our defenceless frontiers from indiscriminating cruelties and horrid devastations of the savages, to which, from its extent, it is so peculiarly exposed. Let a man reflect a moment on the promiscuous scenes of carnage committed by Indians in their midnight excursions, and he must have a heart callous indeed, if he would object to an army supported for the benevolent purpose of preventing them.

“Thus, Sir, I have given you my sentiments of the Fœderal Constitution, and at the same time attempted to obviate some objections which have been made to it. The ambitious, the disaffected and the ignorant, will oppose the establishment of it with a warmth proportionate to their respective fears. Some, under the specious pretext of patriotism, will employ the United power of eloquence and influence against its adoption. For, trust me, Sir, there are some men of such ambitious minds, that they would indignantly trample on the freedom and happiness of mankind, rather than relinquish the dangerous power of ruling an extensive state with unbounded authority. The records of history mention more than one instance of men, who, while they were plunging daggers into the bosom of their country, were adored by the insane multitude as their guardian angels.”

1. Reprinted: *Pennsylvania Packet*, 16 January 1788.

2. Exodus 7:8-13.

300. Publius: The Federalist 13

New York Independent Journal, 28 November

This essay was written by Alexander Hamilton. On 8 December “Philo Publius” requested that the printer of the *Massachusetts Centinel* reprint this essay and asserted that “The writers against the constitution proposed by the late Federal Constitution [Convention]—although they have bitterly condemned it *in toto*, have not proposed any substitute whatever—except we may consider as such, the proposition to erect three great republics, instead of one.—At first view, indeed, this appears to be eligible—A respectable and worthy member of the late Convention from New-York, has therefore in one of a series of papers on the new Constitution, considered such a scheme—and I think demonstrated its ineligibility.—However, that the publick may determine, I request you to give it a place.” This is the earliest known public statement to imply that Hamilton was “Publius.”

The Federalist 13 was reprinted in the New York *Daily Advertiser*, 29 November; *New York Packet*, 30 November; *Massachusetts Centinel*, 8 December; *Pennsylvania Gazette*, 30 January 1788; and *Albany Gazette*, 7 February.

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

THE FEDERALIST. No. XIII.

To the People of the State of New-York.

As connected with the subject of revenue, we may with propriety consider that of œconomy. The money saved from one object may be usefully applied to another; and there will be so much the less to be drawn from the pockets of the people. If the States are united under one government, there will be but one national civil list to support; if they are divided into several confederacies, there will be as many different national civil lists to be provided for; and each of them, as to the principal departments coextensive with that which would be necessary for a government of the whole. The entire separation of the States into thirteen unconnected sovereignties is a project too extravagant and too replete with danger to have many advocates. The ideas of men who speculate upon the dismemberment of the empire, seem generally turned towards three confederacies; one consisting of the four northern, another of the four middle, and a third of the five southern States. There is little probability that there would be a greater number. According to this distribution each confederacy would comprise an extent of territory larger than that of the kingdom of Great-Britain. No well-informed man will suppose that the affairs of such a confederacy can be properly regulated by a government, less comprehensive in its organs or institutions, than that, which has been proposed by the Convention. When the dimensions of a State attain to a certain magnitude, it requires the same energy of government and the same forms of administration; which are requisite in one of much greater extent. This idea admits not of precise demonstration, because there is no rule by which we can measure the momentum of civil power, necessary to the government of any given number of individuals; but when we consider that the island of Britain, nearly commensurate with each of the supposed confederacies, contains about eight millions of people, and when we reflect upon the degree of authority required to direct the passions of so large a society to the public good, we shall see no reason to doubt that the like portion of power would be sufficient to perform the same task in a society far more numerous. Civil power properly organised and exerted is capable of diffusing its force to a very great extent; and can in a manner reproduce itself in every part of a great empire by a judicious arrangement of subordinate institutions.

The supposition, that each confederacy into which the States would be likely to be divided, would require a government not less comprehensive, than the one proposed, will be strengthened by another supposition, more probable than that which presents us with three confederacies as the alternative to a general union. If we attend carefully to geographical and commercial considerations, in conjunction with the habits and prejudices of the different States, we shall be led to conclude, that in case of disunion they will most naturally league themselves under two governments. The four eastern States, from all the causes that form the links of national sympathy and connection, may with certainty be expected to unite. New-York, situated as she is, would never be unwise enough to oppose a feeble and unsupported flank to the weight of that confederacy. There are obvious reasons, that would facilitate her accession to it. New-Jersey is too small a State to think of being a frontier, in opposition to this still more powerful combination; nor do there appear to be any obstacles to her admission into it. Even Pennsylvania would have strong inducements to join the northern league. An active foreign commerce on the basis of her own navigation is her true policy, and coincides with the opinions and dispositions of her citizens. The more southern States, from various circumstances, may not think themselves much interested in the encouragement of navigation. They may prefer a system, which would give unlimited scope to all nations, to be the carriers as well as the purchasers of their commodities. Pennsylvania may not choose to confound her interests in a connection so adverse to her policy. As she must at all events be a frontier, she may deem it most consistent with her safety to have her exposed side turned towards the weaker power of the southern, rather than towards the stronger power of the northern confederacy. This would give her the fairest chance to avoid being the *FLANDERS* of America. Whatever may be the determination of Pennsylvania, if the northern confederacy includes New-Jersey, there is no likelihood of more than one confederacy to the south of that State.

Nothing can be more evident than that the thirteen States will be able to support a national government, better than one half, or one third, or any number less than the whole. This reflection must have great weight in obviating that objection to the proposed plan, which is founded on the principle of expence; an objection however, which, when we come to take a nearer view of it, will appear in every light to stand on mistaken ground.

If in addition to the consideration of a plurality of civil lists, we take into view the number of persons who must necessarily be employed to guard the inland communication, between the different confederacies,

against illicit trade, and who in time will infallibly spring up out of the necessities of revenue; and if we also take into view the military establishments, which it has been shewn would unavoidably result from the jealousies and conflicts of the several nations, into which the States would be divided, we shall clearly discover, that a separation would be not less injurious to the œconomy than to the tranquillity, commerce, revenue and liberty of every part.

301. An Old Whig VII

Philadelphia Independent Gazetteer, 28 November¹

MR. PRINTER, Many people seem to be convinced that the proposed constitution is liable to a number of important objections; that there are defects in it which ought to be supplied, and errors which ought to be amended; but they apprehend that we must either receive this constitution in its present form, or be left without any continental government whatsoever. To be sure, if this were the case, it would be most prudent for us, like a man who is wedded to a bad wife, to submit to our misfortune with patience, and make the best of a bad bargain. But if we will summon up resolution sufficient to examine into our true circumstances, we shall find that we are not in so deplorable a situation as people have been taught to believe, from the suggestions of interested men, who wish to force down the proposed plan of government without delay, for the purpose of providing offices for themselves and their friends. We shall find, that, with a little wisdom and patience, we have it yet in our power, not only to establish a federal constitution, but to establish a good one.

It is true that the continental convention has directed their proposed constitution to be laid before a convention of delegates to be chosen in each state, "for their assent and ratification," which seems to preclude the idea of any power in the several conventions, of proposing any alterations, or indeed of even rejecting the plan proposed, if they should disapprove of it. Still, however, the question recurs, what authority the late convention had to bind the people of the United States, to any particular form of government, or to forbid them to adopt such form of government as they should think fit. I know it is a language frequent in the mouths of some heaven-born PHÆTONS amongst us, who like the son of Apollo, think themselves entitled to guide the chariot of the sun; that common people have no right to judge of the affairs of government; that they are not fit for it; that they should leave these matters to their superiors. This however, is not the language of men of real understanding, even among the advocates for the proposed constitution; but these still

recognize the authority of the people, and will admit, at least in words, that the people have a right to be consulted. Then I ask, if the people in the different states have a right to be consulted, in the new form of continental government, what authority could the late convention have to preclude them from proposing amendments to the plan they should offer? Had the convention any right to bind the people to the form of government they should propose? Let us consider this matter.

The late convention were chosen by the general assembly of each state; they had the sanction of Congress;—for what? To consider what alterations were necessary to be made in the articles of confederation. What have they done? They have made a new constitution for the United States. I will not say, that in doing so, they have exceeded their authority; but on the other hand, I trust that no man of understanding amongst them will pretend to say, that any thing they did or could do, was of the least avail to lessen the rights of the people to judge for themselves in the last resort. This right, is perhaps, unalienable, but at all events, there is no pretence for saying that this right was ever meant to be surrendered up into the hands of the late continental convention.

The people have an undoubted right to judge of every part of the government which is offered to them: No power on earth has a right to preclude them; and they may exercise this choice either by themselves or their delegates legally chosen to represent them in the State-Convention.—I venture to say that no man, reasoning upon *revolution* principles, can possibly controvert this right.

Indeed very few go so far as to controvert the right of the people to propose amendments; but we are told that the thing is impracticable; that if we begin to propose amendments there will be no end to them; that the several states will never agree in their amendments; that we shall never unite in any plan; that if we reject this we shall either have a worse or none at all; that we ought therefore to adopt this *at once*, without alteration or amendment.—Now these are very kind gentlemen, who insist upon doing so much good for us, whether we will or not. Idiots and maniacs ought certainly to be restrained from doing themselves mischief, and should be compelled to that which is for their own good. Whether the people of America are to be considered in this light, and treated accordingly, is a question which deserves, perhaps, more consideration than it has yet received. A contest between the patients and their doctors, which are mad or which are fools, might possibly be a very unhappy one. I hope at least that we shall be able to settle this important business without so preposterous a dispute. What then would you have us do, it may be asked? Would you have us adopt the proposed Constitution or reject it? I answer that I would neither wish the one nor

the other. Though I would be far from pretending to dictate to the representatives of the people what steps ought to be pursued, yet a method seems to present itself so simple, so perfectly calculated to obviate all difficulties, to reconcile us with one another, and establish unanimity and harmony among the people of this country, that I cannot forbear to suggest it. I hope that most of my readers have already anticipated me in what I am about to propose. Whether they have or not, I shall venture to state it, in the humble expectations that it may have some tendency to reconcile honest men of all parties with one another.

The method I would propose is this—

1st. Let the Conventions of each state, as they meet, after considering the proposed Constitution, state their objections and propose their amendments.

So far from these objections and amendments clashing with each other in irreconcilable discord, as it has been too often suggested they would do, it appears that from what has been hitherto published in the different states in opposition to the proposed Constitution, we have a right to expect that they will harmonize in a very great degree. The reason I say so, is, that about the same time, in very different parts of the continent, the very same objections have been made, and the very same alterations proposed by different writers, who I verily believe, know nothing at all of each other, and were very far from acting a premeditated concert, and that others who have not appeared as writers in the newspapers, in the different states, have appeared to act and speak in perfect unison with those objections and amendments, particularly in the article of a Bill of Rights. That in short, the very same sentiments seem to have been echoed from the different parts of the continent by the opposers of the proposed Constitution, and these sentiments have been very little contradicted by its friends, otherwise than by suggesting their fears, that by opposing the Constitution at present proposed, we might be disappointed of any federal government or receive a worse one than the present.—It would be a most delightful surprize to find ourselves all of one opinion at last; and I cannot forbear hoping that when we come fairly to compare our sentiments, we shall find ourselves much more nearly agreed than in the hurry and surprize in which we have been involved on this subject, than we ever suffered ourselves to imagine.

2d. When the Conventions have stated these objections and amendments, let them transmit them to Congress and adjourn, praying that Congress will direct another Convention to be called from the different states, to consider of these objections and amendments, and pledging themselves to abide by whatever decision shall be made by such future

Convention on the subject; whether it be to amend the proposed Constitution or to reject any alteration and ratify it as it stands.

3d. If a new Convention of the United States should meet, and revise the proposed Constitution, let us agree to abide by their decision.—It is past a doubt that every good citizen of America pants for an efficient federal government—I have no doubt we shall concur at last in some plan of continental government, even if many people could imagine exceptions to it; but if the exceptions which are made at present, shall be maturely considered and even be pronounced by our future representatives as of no importance; (which I trust they will not) even in that case, I have no doubt that almost every man, will give up his own private opinion and concur in that decision.

4th. If by any means another Continental Convention should fail to meet, then let the Conventions of the several states again assemble and at last decide the great solemn question whether we shall adopt the Constitution now proposed, or reject it? And, whenever it becomes necessary to decide upon this point, one at least who from the beginning has been invariably anxious for the liberty and independence of his country, will concur in adopting and supporting this Constitution, rather than none;—though I confess I could easily imagine, some other form of confederation, which I should think better entitled to my hearty approbation;—and indeed I am not afraid of a worse.

1. This essay, with many changes in punctuation and capitalization, was also printed in the Philadelphia *Freeman's Journal* on 28 November. It was reprinted in the *New York Journal*, 15 December, and *Salem Mercury*, 18 December. For the authorship of "An Old Whig," see CC:157.

302. Philadelphiensis II

Philadelphia Freeman's Journal, 28 November

This essay was also printed in the Philadelphia *Independent Gazetteer* on 28 November, except for the text within angle brackets. The entire essay was reprinted in the Boston *American Herald* on 17 December.

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

My Fellow-Citizens, The present time will probably form a new epoch in the annals of America. This important, this awful crisis bids fair to be the theme of our posterity for many generations. We are now publicly summoned to determine whether we and our children are to be *freemen* or *slaves*; whether the liberty, which we have so recently purchased with the blood of thousands of our fellow countrymen, is to terminate in a blessing or a curse.

The establishment of a new government is a matter of such immense magnitude, that any other human transaction is small indeed when

compared to it. Great circumspection is therefore necessary on this interesting occasion: the temporal, and in some measure the eternal happiness of millions of souls is involved in this important work: I say even in some measure our eternal happiness is concerned; for, that a good or a bad government naturally influences religion and morality, is a principle indisputably confirmed by fact. Under a free and patriotic government, the bulk of the people will necessarily be virtuous: but under a tyrannical and unjust one, the greater part of the people will as necessarily be wicked: the complexion of the *governing* is ever the colour of the *governed*.

Every freeman possessed of the smallest portion of patriotism and general philanthropy, ought, at this critical juncture, to think seriously, to deliberate coolly, and to determine cautiously. All that is dear to him, nay all that constitutes life itself happy or miserable, is at this very moment about to be unalterably fixed: the rivet of tyranny may now be clenched, that will bind forever the freedom of America in the indissoluble chains of cursed slavery. In the adoption of the new constitution in its present form, we will lose more than all that we have fought for, and gained in a glorious and successful war of seven years; yea, and still more than this, our very character of *citizens* and *freemen* will be changed to that of *subjects* and *slaves*. In this act the bright orb of glorious liberty will go down under the horizon of cruel oppression, never never to illuminate our western hemisphere again! How much better, that she had never cast a ray upon Columbia, than thus to blaze for a moment, and then to vanish forever!

In regard to religious liberty, the cruelty of the new government will probably be felt sooner in Pennsylvania than in any state in the union. The number of religious denominations in this state, who are principled against *fighting* or *bearing arms*, will be greatly distressed indeed. In the new constitution there is no declaration in their favour; but on the contrary, the Congress and President are to have an absolute power over the *standing army, navy, and militia*; and the *president*, or rather *emperor*, is to be commander in chief. Now, I think, that it will appear plain, that no exemption whatever from militia duty, shall be allowed to any set of men, however conscientiously scrupulous they may be *against bearing arms*. Indeed, from the nature and qualifications of the president, we may justly infer, that such an idea is altogether preposterous: he is by profession a *military man*, and possibly an old soldier; now, such a man, from his natural temper, necessarily despises those who have a conscientious aversion to a military profession, which is probably the very thing in which he principally piques himself. Only men of his own kind

will be esteemed by him; his fellow soldier he will conceive to be his true friend, and the only character worthy of his notice and confidence.

Since, in the new constitution no provision is made for securing to these peaceable citizens their religious liberties, it follows then by implication, that no such provision was intended. Their influence in the state of Pennsylvania is fully sufficient to save them from suffering very materially on this account; but in the great vortex of the whole continent, it can have no weight. How can we expect that a special law will be made by the new Congress merely on their account; and yet it will be absolutely necessary that such a law shall be made, before this privilege is secured to them? Can any man rationally suppose that the president will give his assent to a law in favor of the men whom he heartily despises; a law also, that in its operation must curtail his own *dignity* and *splendor*, by reducing the number of his military? No certainly. There is not probably a military man on earth that could bear the thought. So that such a supposition is absurd. The friends of this scheme of government may possibly attempt to say, that this religious liberty is sufficiently secured by the constitution of the state. But I say not; for, this is a case in which the United States are a party, and every case of this kind, according to the new plan, must be determined by the *supreme law of the land*; that is, by the Congress and president, who are to have the sole direction of the militia. This will be a matter then, in which a particular state can have no concern.

From the proceedings of the convention, respecting *liberty of conscience*, foreign politicians might be led to draw a strange conclusion, *viz.* that the majority of that assembly were either men of *no* religion, or all of *one* religion; such a conclusion naturally follows their silence on that subject; they must either have been indifferent about religion, or determined to compel the whole continent to conform to their own. For my own part, I really think, that their conduct in this instance is inexplicable: it is impossible to divine what might have been their intentions.

¶ To illustrate this defect in the new constitution, by a familiar instance: we shall suppose that the negroes of Georgia, or some of the southern states, prompted by the love of *sacred liberty*, shall attempt to free themselves from cruel slavery, by a *noble appeal to arms*. In this case the Congress may order the militia of Pennsylvania to march off to quell this insurrection: now on such an occasion, what must the condition of that Pennsylvanian be, who, besides being conscientiously scrupulous against bearing arms, on any account whatever, has, over and above, made the *manumission of slavery*, a part of his religious creed? Miserable must be the state of such a man's mind indeed! More to be pitied is he, than the wretches against whom he is compelled to fight! The foregoing

supposition is by no means an unnatural one; and truly, if the new constitution be adopted, I have little doubt, but the thing itself will some time or other be realized. I shall by way of digression add one sentiment, namely, that I should have no objection, that the slaves in the United States would free themselves to-morrow from their present *thralldom*, provided no lives be lost on this occasion; and with this proviso, I sincerely pray, that God may grant them success in their first attempt. Freedom is the birth-right of every man; and who is he that hath dared to rob his fellow men of this glorious privilege, with whom God will not enter into judgment?)

Before I dismiss this subject, I cannot help taking notice of the inconsistency of some Pennsylvanians, in respect to this new government. The very men, who should oppose it with all their influence, seem to be the most zealous for establishing it. Strange indeed! that the professed enemies of *negro* and every other species of *slavery*, should themselves join in the adoption of a constitution whose very basis is *despotism* and *slavery*, a constitution that militates so far against freedom, that even their own religious liberty may probably be destroyed by it. Alas! what frail, what inconsistent beings we are! To the catalogue of human weaknesses and mistakes, this is one to be added.

Ah! my countrymen, our situation is critical indeed! Let us make a solemn pause then! The eyes of the world are upon us; the patriots and friends of America, in Europe, are now anxiously concerned, lest the whirlwind of tyranny should raze from its tender root the hallowed plant of Columbian liberty.

Before we confirm this new constitution, let us ask ourselves this question—For what did we withdraw our allegiance from Great Britain; was it because the yoke of George the third was not sufficiently galling, that we cast it off, at the expence of so much blood and treasure, in order to accommodate ourselves with one of our own construction more intolerable? or, was it because the tyrant was three thousand miles off, that we revolted, in order to appoint one at home, who should correct us with scorpions instead of whips? If this were your design, I congratulate you on your success; hesitate not a moment then in the adoption of the new constitution: It is a perfect model, and answers your intentions completely. It certainly is capable of carrying *tyranny* and *despotism* to their ne plus ultra, no second revolution will be necessary, no further attempt need be made on this head; for this government will answer the end proposed to all intents and purposes.

Are these groundless conjectures, mere declamations unsupported by evidence, or affirmations without proof? No truly—Read the Old Whig, read the Centinels, read Brutus, Cincinnatus, &c. and then say, if you

can, that these things are not real. Perhaps better arguments were never advanced in the demonstration of any truth, than these writers have given to illustrate this matter; whilst the writers on the opposite side have not been able to refute them in a single instance.

I shall close this essay with one observation, *viz.* that should this despotic scheme of government be overthrown, (which God grant) to what cause then are we to attribute this glorious triumph? The answer is obvious—to that palladium of liberty, that inestimable privilege of freemen, that scourge of tyranny, *the freedom of the press*; (and to the honor of Philadelphia, let it be remembered, that her Independent Gazetteer, her Freeman's Journal, &c. were the first heralds that sounded the alarm, and that engaged in this noble struggle, which, I trust, will terminate in favour of liberty, and in this victory a whole continent will be freed from bondage.)

303. A Federal Republican

A Review of the Constitution, 28 November

On 28 November advertisements in the Philadelphia *Freeman's Journal* and the *Pennsylvania Herald* announced the sale of a pamphlet by "A Federal Republican" entitled *A Review of the Constitution Proposed by the Late Convention Held at Philadelphia, 1787* (Evans 20678). The pamphlet was printed by Robert Smith and James Prange of Philadelphia. It was also advertised by the *Pennsylvania Packet* on 30 November and the *Pennsylvania Gazette* on 5 December. Each of the four newspapers ran its advertisement for at least two more issues, with the *Gazette* and the *Herald* running them as late as 2 January and 14 February 1788, respectively. The advertisements indicate that the pamphlet was available in at least eight Philadelphia print shops. On 28 October 1788 the printers of the Trenton *Federal Post* announced that copies of the pamphlet were still available.

The thirty-nine page pamphlet is inscribed "To the FREEMEN of the United States" and is dated "Philadelphia, Oct. 28, 1787." The title page includes an epigraph from Cicero's *De Officiis* (Book I, chapter XVII): "*Sed omnes omnium charitates Patria una complexa est*" (i.e., "But one native land embraces all our loves"). The epigraph is followed by this stanza:

"Yet not the ties that kindred bosoms bind,

Not all in friendship's holy wreathes entwin'd

Are half so dear, so potent to controul

The gen'rous workings of the Patriot's soul."

Both the epigraph and the stanza appear in the Philadelphia advertisements. The last page of the pamphlet consists of an errata.

No responses to "A Federal Republican" have been located.

FRIENDS and FELLOW-COUNTRYMEN; When any nation is about to make a change in its political character, it highly behoves it to summon the experience of ages that have past, to collect the wisdom of the present day, and ascertain clearly those just principles of equal government, that are adapted to secure inviolably the lives, the liberties, and the

property of the people. In such a situation are these United States at the present moment.—They are now called to announce the *Alpha* or the *Omega* of their political existence, to lay a deep foundation for their national character, and to leave a legacy of happiness or misery to their children's children.—The Constitution recommended to the consideration of the United States, is a subject of general discussion; and, while it involves in its fate the interest of so extensive a country, every sentiment that can be offered upon it, deserves its proportion of the public attention.—It is worth our while, before we make any observations on the Constitution, as it stands recommended, to recur to the motives which gave rise to the calling of a Convention. We were taught by sad experience, the defect of the present articles of confederation, and wisely determined to alter and amend them.

At the framing of the present confederation, the bond of union among the States, which arose from a community of danger, in some measure superseded the necessity of wisdom. A common interest excited us to unite our exertions for the public good.

At such a time a system of government conceived in perfect wisdom, and adopted with deliberation, was not expected; and as soon as those common principles which supplied its defects, ceased to operate, the inconveniences which arose from them, were very sensibly felt. Since that time the seeds of civil dissention have been gradually ripening, and political confusion hath pervaded the States. Commerce hath been declining, our credit suffering, and our respectability, as a nation, hath almost vanished. In such circumstances it was thought proper to collect the patriotic wisdom of the States for the purpose of amending the articles of confederation, which were found to be inadequate to the security of national prosperity and happiness; and of making such additions to supreme power, as our situation testified, were wanted. Necessity, therefore, gave birth to the Convention, and the glaring defects of the late system of confederation, were the objects of its amendment. But was it a total subversion of the confederation, that was intended by Congress or expected by the people? Any one tolerably acquainted with human nature, can easily discern, that people involved in difficulty, would embrace any change, even if it were evidently and designedly for the worse. But this circumstance ought not to preclude examination. Did we experience any disadvantage from every part of the present confederation? And why alter that which experience itself hath taught us to be good? Was it not expected that some necessary additions to the powers of Congress, together with a few alterations of a smaller nature would constitute the whole of their business? To frame a Constitution entirely new therefore was out of their province. This is not offered as

an argument against the Constitution itself, but it would certainly have been wisdom to have reserved that which was known to be good, and to have amended that only which was found defective from experience. But notwithstanding that, if the proposed constitution can be made [to] appear to be excellent in itself, and properly adapted to secure inviolably the rights and privileges of the people; it is the part of every honest man to wish its establishment.

But that upon examination it will be found to be otherwise, I am fully persuaded.

We shall proceed to offer some sentiments on the Constitution proposed for the acceptance of the United States. In doing this, we shall endeavour to state most of the objections which have been made, and collect their force into one point of view.

It may be proper to take some notice^(a) of an opinion that has been offered to the public. It is said by some, that after having delegated the best and wisest men in our country for the purpose of framing a Constitution for the United States, it would be only presumption to offer any objections to it. This doctrine holds up to view an excess of humility. Any errors which we may imagine to exist in the Constitution, we are to resolve into our own incapacity to fathom them. It is true that we ought to rely much upon the wisdom of those patriots who composed the late Convention; but surely the people for whom they acted have an undoubted right to offer such objections as they may suppose to exist, and that for the purpose of having them accurately solved by more enlightened understandings. It is the part of the doubtful to enquire, and of the wise to answer and instruct. It is from this principle, and this only, that I now offer my thoughts on the subject. Besides the nature and importance of the thing shew the propriety of impartial discussion.

If it be true also, that no public deliberative assembly, however wise, is perfectly uninfluenced by secular interest; but that all are in some degree subject to those temporary relapses from prudence, which passion occasions, we may very naturally suppose that some parts of this Constitution are tinctured with correspondent partiality and weakness. Nature is seldom over-awed by wisdom, and she often times draws her own picture in opposition to the constraint of education. We may without derogating from the characters of the members of Convention, expect to find defects in the Constitution which they have framed; and if the scrutiny of the public eye, viewing it in an infinite variety of lights can discern them, the motives must be dishonorable that prevent the communication of them.

On this subject much hath been published. Most of those pieces, however, which are said to be in favour of the Constitution, are only

penegyrics, or those^(b) parts which are good, and to which no objections have been made. Mr. Wilson's speech¹ does not come under this description. It was composed in a masterly manner with strength and judgment. In it he has endeavoured to obviate some objections that have been offered to the public. It may be that the force of his arguments is not fully felt; but I think it will appear to any one whose understanding is not immediately^(c) refined, that the writer who stiles himself the Democratic Federalist² is more than equal to him. The Centinel³ has ably proposed many objections which have not been yet satisfactorily refuted. Probably some of them exist beyond contradiction. The author of a pamphlet, stiled, Remarks on the Address of the Sixteen Members of the Assembly of Pennsylvania,⁴ has indeed touched upon many objections, and then *dismissed them*. His whole performance is coloured with the ridiculous. He is no doubt a friend to Shaftsbury's position, and feels that it is easier to *laugh* than to *reason*. There is another pamphlet written by a citizen of America in favour of the Constitution.⁵ The author of this deserves much for his style and plausibility of expression. He has made many excellent and wise remarks upon the Constitution. He has *insti-tuted* a comparison between it and that of Rome and England. He points out several defects in the system of policy amongst the old Romans and modern Britons, and shews with some judgment the superior excellence of the proposed Constitution in its correspondent parts. But this is by no means proving that there are no errors in it. Some objections he has indeed *partially* considered, but the chief of the piece, which is good in itself, consists in encomiums on those parts which are unexceptionable. His mode of comparison is not just. Wealth and extent of territory have an immediate relation to government. The manners and customs of the people are closely connected with their government. Experience testifies that the manners and habits of the people in their several graduations to refinement have ever controuled their policy.

The excellent Montesquieu himself observes, that "the manners and customs of the people have an intimate connection with their laws."⁶ In a comparison therefore, all these things ought to be considered. The same system of policy that might have been excellent in the government^(d) of antiquity, would not probably do at the present day. The question which should be agitated is not whether the proposed constitution be better or worse than those that have from time to time existed; but whether it be in every respect adapted to secure our liberty and happiness at the *present stage* of the world.

There is one circumstance in the sitting of the late Convention, which bears upon its face the colour of suspicion. It adds one to the many examples of the truth of the common adage (which is founded in a pro-

pensity of human nature) that all who have power are fond of executing^(e) it. They have^(f) power to controul the manner of their convening, and they did it indeed in a very suspicious way. They excluded themselves as it were from the view of the public, and an injunction of secrecy was imposed on the members. This might have been done to blunt the natural jealousy of the people; but it was depriving them of a guard to their liberties, which they should ever possess. Whatever were there intentions in shutting out their proceedings from the public ear, it carried in it a suspicious appearance.

But this is a matter small in itself, and for the honor and respect which we profess to entertain for the members of Convention, we are bound to believe that their motives in this particular were honorable, decent and wise.

In reviewing the proposed Constitution, the first thing that strikes us is the division of the legislative authority into two branches. I think that after mature deliberation, this will be acknowledged to be prudent and wise. Yet what some writers have observed upon it is not perfectly true. They have deduced their advantages from improper positions. In the division of the legislative power, bad bills will probably be passed, but more good ones will be opposed. In forming a just *nexus imperii*, this ought always to take place. It is better that many good bills should be destroyed than that a single bad one should be permitted to pass. Were it not for this circumstance, there would be little advantage. For although the passion of the one might sometimes be controuled by the coolness of the other; yet the passion of the latter might sometimes counteract the wisdom of the former. Experience however shows it to be wise to divide the legislative power between two distinct bodies.

The next thing that presents itself to view, is the representation of the states.

In the second section of the first article it is said, that representations and direct taxes shall be apportioned among the several states, which may be included in this union according to their *respective members*,^(g) 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 a manner as they shall by law direct. The number of representatives shall not exceed *one* for every *thirty thousand*; but each state shall have at least one representative; and until such enumeration shall be made, the state of New-Hampshire shall be entitled to chuse *three*, Massachusetts *eight*, Rhode-Island and Providence Plantations *one*,

Connecticut *five*, New-York *six*, New-Jersey *four*, Pennsylvania *eight*, Delaware *one*, Maryland *six*, Virginia *ten*, North-Carolina *five*, South-Carolina *five*, and Georgia *three*. Here it is evident the representation is too scanty. There is a certain corrective balance to be preserved, not only between different houses, but also between the members that compose the same house. This is often times of very great use. It tends to keep alive a spirit of more accurate discussion. But with such a *paucity* of members, this advantage can never be experienced. Besides what thirty thousand men would be willing to have *one* man represent them. It borders indeed upon injustice. Among thirty thousand people there must of necessity be a variety of classes, each having distinct and separate concerns, to which some respect would most certainly be due. Among such a number of men there will naturally be so many different ratios of interest to which their feelings are alive, and with which their happiness is intimately connected, that they should by all means be regarded. It would indeed be frivolous to attend to the most minute circumstantial divisions of interest; but in such a number as thirty thousands there must be *divisions* of a larger and more important nature, which are entitled to respect.

But in the clause before-mentioned, there is a more material error; an error which essentially effects^(h) the rights of some states. It is the inequality of representation in the lower house. This particular has not yet been agitated.

In forming a *confederation* of *independent* republican states, it hath always been esteemed a fundamental law, that each state should have an equal representation. In forming the present confederation of the United States, this point was warmly urged by several learned gentlemen, and carried in Congress. Here is a change of which the citizens of the United States, who are less governed by principles of private interest, than those of true and impartial justice should beware. The articles of the present confederation in this particular, are much more near akin to justice. They are not so highly coloured with *lawful oppression*. In the fifth article it is said, that, "in determining questions of the United-States in Congress assembled, *each state shall have one vote*."⁷⁷ This is founded in reason, and its propriety is evinced by experience, from both of which it is very easy to prove, that representation among separate independent states should be equal. What is oftentimes observed upon this subject has very little meaning or force.

What, shall one state that is wealthier than another, that exceeds it in extent of territory, and has a far greater interest in national decisions, have no more weight in them? Shall (for instance) the state of Delaware or Rhode-Island have an equal voice with that of Virginia or Massa-

chusetts? Here is an apparent, though a very superficial difficulty. The superior weight of large states does not, and ought not to consist in a greater number of representatives. There is an unavoidable influence arising from circumstances, which of itself forms the superiority. It is evident that a larger and richer state must of necessity have its influence over a smaller in a due proportion. But the establishing a superiority⁽ⁱ⁾ by law in the inequality of representatives among the states, is a kind of a constitutional reduction to slavery. Its superior influence exists in nature, and therefore it is unnecessary, and indeed abusive to establish it by law. The representation of *seperate independent* states is exactly similar to the votes of individuals. Rich citizens, who have large and valuable possessions are much more effected⁽ⁱ⁾ by public decisions than those of little or no fortune. Yet is a rich citizen entitled to a greater number of votes than one who is poor? No, because in the very nature of things he is known to influence many poor men. Influence will generally be in proportion to abilities and wealth. The same principle may be applied to states with equal propriety. The larger and wealthier have a necessary and unavoidable influence over the smaller and less wealthy. Examples to verify this assertion are numerous, and among the number there is one the more striking from its bearing so great a resemblance to the American states.

The United Netherlands, or States of Holland, form a glaring example. Every state in the union has an equal voice, and yet is it not evident that Holland is as superior in influence as she is in wealth and extent? This arises from the nature of the thing. Although an equal voice is decreed by the constitution to each state, yet that of Holland has swallowed up the wealth, the power, and even the name. Many more instances might be adduced, but the general system of things teaches us the propriety of admitting each state to an equal representation. It is said, however, that the small states will eagerly adopt the constitution proposed by the Convention. This I am inclined to doubt, but taking it for granted we can easily account for it. Their present situation is so bad, and their importance so inconsiderable, that of two evils they would willingly chuse that which is apparently the least. But let them have *time* to discuss and consider the matter, and recollect the probable perpetuity of it, and they will not so hastily embrace it. There are many reasons why small states would rather adopt this constitution, than run the risque of having none at all. In the former case, their importance would at least be nominal, in the latter it would dwindle away to nothing. It may be urged that the danger arising from the inequality of representation in the lower house, is sufficiently guarded against by the equality in the senate. Be that as it may, the thing is essentially wrong

in itself. There is a mutual dependence between the two houses, and each has its proportion of influence. No circumstance can alter the intrinsic injustice of the thing. The more such inequality takes place, the more direct is the avenue to tyranny.

The other grand defect in the foregoing clause, we shall defer for the present, and treat it in the sequel.

In the third section of the first article it is said, that "the senate of the United States shall be composed of two senators from each state, chosen by the *legislature* thereof for *six* years."

Then follows a mode of division amongst them into three classes, of which the first is to resign its place at the expiration of the second year, the second the fourth year and the third the sixth year. This may in itself be an excellent thing, and well adapted to preserve a proper degree of experiential wisdom in the senate at all times. That class which retains its seat for six years, will in many respects have a superiority.

This being the case, the manner of determining the classes should have been stated; otherwise the jealousy of the states may rouse the animosity of party division to such a pitch as to endanger the springs of government. If a proper mode of dividing were pointed out, the division itself might be of great use.⁸

The fourth section of the first article says, that "the times, places and manner of holding elections for senators and representatives shall be prescribed in each state by the legislature thereof; but the Congress *may* at any time *make* or alter such regulations except as to the *place* of chusing *senators*." Here the mode of expression seems to be designedly ambiguous.^(k) It carries in it, however, a controuling power to be vested in Congress over the states in those matters that don't^(l) at all concern the nation at large. The power is limited—"except as to the place of chusing *senators*."—This I suppose was excepted because the senators are to be chosen by the *legislature* of each state. Indeed it would be an odd affair to have the legislatures of the several states collected together for the purpose of chusing senators in any place that Congress should appoint. But why is not the same provision made in the case of representatives? They are to be chosen by the people at large in each state—but is it an easier matter to draw the body of the people in any state into one place than their legislative body only? There may be some hidden propriety in this distinction, which it requires political vision very much refined to discern. I could wish to see it clearly pointed out. This refers, however, only to place—but what is meant by the manner of holding elections? If we are to understand by it the *mode of electing*, to give Congress power to controul it is infringing upon one of those privileges upon which freedom itself is suspended. The manner of electing is clearly

pointed out by the excellent *Montesquieu*, and he considers it as a fundamental law in every republican state.⁹ While the people of the several states, who are alone concerned in it, have the free exercise of their will, they will adhere to this law; but to oblige them to resign it to a power whom it very little interests, is almost to oblige them to sell their birth right. A writer upon this subject, who signs himself an *American Citizen*,¹⁰ considers this matter very strangely; he supposes it to be a guard against the possibility of obstinacy in any state—as in the case of Rhode-Island. This then is designed for a political antidote, in case of refusal in any one state to elect at all. But this is a very absurd supposition—for it is very evident that where there is no election, there can be neither *time*, *place* nor *manner* of holding it. The clause in the constitution takes for granted some election, but his construction supposes none at all.

The eighth section of the first article appears upon consideration to be big with unnecessary danger.

It seems to reduce humanity to too great a test. It bloats Congress with too much power, and leaves them without a guard to prevent the eruptions of human depravity. The very first clause contains every species of power that they could possibly be vested with. In it power is given them “to *lay* and *collect* taxes, duties, imposts and excises, to pay debts, and to provide for the common defence and *general welfare* of the United States; but all duties, imposts and excises shall be uniform throughout the United States.” This power may, if exerted in its extent, reduce the several states to poverty and nothing. We would willingly pay a compliment to human nature by supposing the best, if experience did not rise up against us. The wisdom of many nations hath induced them to enlarge voluntarily the powers of their rulers; but we have no instances of such self-denial in governors as hath led them to restrain their own power and abridge their own authority. It was wisdom in this country to appoint a convention for the purpose of enlarging the powers of Congress; but it will be superior wisdom to give them no more power than is sufficient. Our situation taught us the necessity of enlarging the powers of Congress for certain national purposes, where the deficiency was experienced. Had these and these only been added, experience itself would have been an advocate for the measure. But in the proposed constitution there is an extent of power in Congress, of which I fear neither theory nor practice will evince the propriety or advantage. The power of internal taxation given to Congress in the foregoing clause, is a very unjust and improper one. It has been hinted in some publication, that impost will defray all our national expences.¹¹ This is a proposition perfectly absurd. Will not the support of a standing army, a navy, &c. be a prodigious addition to national expence? To say that this government

will not be an additional expence to the country, is an assertion to which common sense would never assent. Let it be remembered, that this constitution, if adopted, will create a vast number of expensive offices. Most of them will be of the national character, and must be supported with a superior degree of dignity and credit; without regarding the enormous expence which Congress may incur if *they please*. The many places that will and must be created and paid for, will add much to the burden of our debts. In the legislative, executive, and particularly the *judiciary* department, there will be a multiplicity of officers hitherto unknown, and the salaries annexed to them must be very considerable. Besides, if the states are to retain even a *shadow* of sovereignty, the expence thence arising must also be defrayed. This combination will cause a greater demand than can easily be answered. The gentleman who remarks upon the address of the sixteen members, answers this objection with uncommon sagacity. "The first objection is, (says he) that the government proposed will be too expensive." I answer that, if the appointment of offices *are* not more, and the compensation or emoluments of office *not* greater than *is* necessary, the expence will be by no means burdensome, and this must be left to the prudence of Congress: for I know no way to *controul* supreme power *from* extingencies^(m) in this respect."¹²

What does all this amount to, but an oblique confession, that Congress may, if they please, load us with many needless expences?

The taxation of the particular states for their own support will be over-ruled by Congress, or else it will be obliged to embrace a measure perhaps the most odious in the world, viz. excessive taxation. This would be widely different from the opinion of the ablest politicians. I am persuaded that if this constitution were to be adopted, Congress would be reduced to this alternative, either to oppress the people in the manner just hinted, or commit upon them a violent injury by depriving them of their rights.

Congress will be the judges of what is necessary for the *general welfare* of the United States, and this will open the door to any extravagant expence which they shall be pleased to incur. For this reason their power should have been accurately defined. Baron Montesquieu (B. 13, C. I) observes that "the real wants of the people ought never to give way to the imaginary wants of the state. Imaginary wants are those which flow from passion, and from the weakness of the governors, from the charms of an extraordinary project, from a distempered desire of vain glory, and from a certain impotency of mind that renders it incapable of withstanding the attacks of fancy. Often times has it happened, that ministers of restless dispositions have imagined that the wants of the state were those of their own little and ignoble souls."¹³ That this may hap-

pen here, we have a right, and indeed ought to suppose. Any man who carefully attends to the constitution⁽ⁿ⁾ quoted above, must judge that the powers granted by it, are too indefinite. Indeed as it stands there expressed, it includes every other power afterwards mentioned.

We come now to speak of a standing army. By this constitution, the Congress have power to "declare war," as also to "raise and support armies; but no appropriation of money for that purpose shall be for a longer term than two years." We are to suppose that Congress is a representation of the people of the United States at large; if so, the *nexus imperii* even of the English constitution is lost. There the king has only the power of declaring war, and the house of parliament, that of raising money for the support of it. So that it seems to be wrong to give Congress this combined power independent of a check from a majority of the state legislatures. "No appropriation of money for this purpose shall be for a longer term than two years." This is not very moderate. The space of time is only as *long again* as that permitted in England, for the same purpose.

But a standing army in time of peace is strongly to be objected to. It always hath been and always will be the grand machine made use of to subvert the liberties of free states. *Pisistratus and Cæsar* are not forgotten. It ought to be laid down as a principle that free states should never keep a standing army for the support of its laws. "They ought (as *Brutus* says) to depend for their support upon the citizens. And when a government is to receive its support from the aid of the citizens, it ought to be so constructed as to have the confidence, respect and affection of the people. Men who upon the call of the magistrate, offer themselves to execute the laws, are influenced to do it from affection for the government or from fear; when a *standing army* is at hand to punish offenders, every man is actuated by the latter principle, and therefore, when the magistrate calls, will obey." Fear however is a contracting principle of obedience. "But when this is not the case, the government must rest for its support upon the confidence and respect which the people have for their government and laws."¹⁴ If therefore the government of the United States be just and equal, and the states are to retain their separate powers, a standing army is useless and dangerous. It will inevitably sow the seeds of corruption and depravity of manners. Indolence will increase, and with it crimes cannot but increase. The springs of honesty will gradually grow lax and chaste,^(o) and severe manners be succeeded by those that are dissolute and vicious. Where a standing army is kept up, virtue never thrives. In this particular experience will abundantly testify what the nature of the thing would suggest. Whatever the refinement of modern politics may inculcate, it still is certain that some degree

of virtue must exist, or freedom cannot live. Unless Mandervill's position be embraced, "that private vices are public benefits:"¹⁵ a standing army will work the destruction of these states. Virtue and simplicity of manners in an extensive country by their innate energy and vigour, create a healthy constitution, and command prosperity to accompany it; but *vice* like a sickly air, debilitates the nerves of the political body, and withers all its bloom. A standing army will increase *vice*, and that a disunion of interest and affections. It is this that weakens the force, and destroys the harmony of free states. These evils in process of time will be derived from a standing army, and when we shall have outlived our *virtue*, every effort to recover it, will be vain and abortive. The propriety and advantage of a standing army can be but poorly vindicated.

My fellow citizens, beware of such pretences, and while this tyrannical *monster* of depravity exists in the plan, do not adopt it, unless you are willing to entail upon your children the miseries of vice, and leave to posterity the corrupted relics of a shattered government.

The next thing which we proceed to, is the importation of slaves, contained in the ninth section of the first article. It says, that "the migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by Congress prior to the year 1808, but a tax or duty may be imposed upon such importation, not exceeding ten dollars for each person." "The truth is, (says a citizen of America) Congress cannot prohibit the importation of slaves during that period; but the laws against the importation of them into any particular state stand unrepealed. An immediate abolition of slavery would be ruin upon the whites and misery upon the blacks in the southern states. The constitution therefore hath wisely left each state to pursue its own measures with respect to this article of legislation during the period of twenty-one years."¹⁶ That the importation of slaves shall not be forbidden till that time may be very wise—but what hath that to do with the abolition of slavery? To prohibit the importation of slaves is not to abolish slavery. For all that is contained in this constitution, this country may remain degraded by this impious custom till the end of time.

The next thing that strikes our attention in a review of the constitution is the disposition of the judicial powers. The first section of the third article says; that "the judicial powers of the United States shall be vested in one supreme court, and in such inferior courts as Congress *shall* from time to time establish. The judges both of the supreme and inferior courts shall hold their offices during good behaviour, and shall at stated times receive for their services a compensation which shall not be diminished during their continuance in office." This is certainly too indefinitely comprehensive. What *inferior courts* Congress shall be pleased

to establish, is not known, nor can be imagined. Montesquieu is of opinion, that where the judicial power is not kept perfectly distinct from the legislative and executive, liberty is endangered.¹⁷ The *Centinel* quotes a clause from Blackstone, much to the purpose, which says, “that if the power of judging were entirely trusted with the magistrates, or any select body of men, *named by executive authority*, their decisions in spite of their own natural integrity would have a bias towards those of their own rank and dignity; for it is not to be expected, that the *few* will be attentive to the rights of the *many*.”

This therefore preserves in the hands of the people, that power which they ought to have in the administration of justice, and prevents the encroachments of the most powerful and wealthy citizens.”¹⁸ If this be true, what may not the judiciary come to under this constitution? It may gradually grow corrupted, till the very power of judging become the readiest tool in the work of tyranny. *Drowsy* justice may e'er long sit *nodding* on her rotten bench, and a *collective despot* smile upon the *harpies* of ravenous *ambition*. Such a despot must indeed have many friends, whose injustice in their way to glory, would readily be connived at.

It is worth our while to enquire how far the proposed constitution will tend to reduce the dignity and importance of the states. The several states are by this constitution, to have a republican government guaranteed to them; but where is the use of such a position, when the powers granted to Congress must inevitably make it void? That the republican form here decreed to each state will indeed be only *form*, human nature as well as experience will evince. Let us attend to the three first articles in the constitution of Poland. 1. “The crown of Poland shall be forever elective, and all order of succession provided; any person who shall endeavour to break this law, shall be declared an enemy to his country, and liable to be punished accordingly. 2. Foreign candidates to the throne, being the frequent cause of troubles and divisions shall be excluded; and it shall be enacted, that for the future, no person can be chosen king of Poland, and great duke of Lithuania, excepting a native Pole, of *noble* origin, and possessing land within the kingdom. A son or grandson of a king of Poland, cannot be elected immediately after the death of their father or grandfather; and are not eligible excepting after an interval of two reigns. 3. The government of Poland shall be forever *free, independent*, and of a *republican form*.”¹⁹ What frenzy to talk of freedom and independence after the two first articles. The height and extent of this freedom and *independence*, experience has shown and will show.

After a candid examination into the disposition of the legislative, executive and judicial authority of the United States, it will appear that

the several states will have very little or no separate internal policy, but will be all pressed into one compact system of government, of which they will only be parts. The want of responsibility to the people among the representatives in this constitution, would furnish matter for ample discussion, but we pass over it in silence, only observing that it is a grand and indeed a *daring* fault, and one that sanctions with security the most tyrannic edicts of a despotic voice. Here, my fellow citizens, is a wide avenue to corruption, of which time will evince the danger. "Which circumstance taking place, every species of venality must spread through the land with rapid progress. The contagion will not be confined to the higher classes; it will extend its baneful influence over all ranks and degrees of men.

Thenceforward the security of property will be unhinged, and our most valuable rights will be held upon a precarious tenure.

The judges of our property are named by the supreme, and his favour will be confined on those persons who lend their support perhaps to tyrannical measures.

Hence the contagion of venality will pervade the seats of justice. It will be kept alive by gainful prospects; and every occasion of solicitation in favour of a son or a brother, or any relation or friend, will be a fresh incitement to preserve the venal system in strength and vigor.

It will not escape notice, that the determination of our property in the *last resort*, will, by the power decreed to the supreme, by this constitution, be lodged with persons, whom, if corrupted, no dependence on the people will oblige to be just."

The ministers of justice of all others should not be beyond the reach of the people.

The same thing is true of political as of other machines. The utility of them does not increase with the complication of their parts. But provided the effect be the same, the more simple the better.

The organization of this is evidently so complex that it will require much strength to put it in motion: and great care must be taken in the use of it, that the smaller parts be not broken to pieces.

But I fear that no care can prevent the extinction of independence among the several states. The judicial power proposed to be granted by this constitution, goes far to produce this effect. The powers of the supreme courts and of such inferior courts, as Congress shall *be pleased* to ordain, are exceedingly comprehensive. It comprises all civil cases, except those which arise between citizens of the same state. That the judicial power of each state will sink into nothing, will easily be seen. Suppose, for instance that Congress be pleased to ordain or establish one of these inferior federal courts in each state. The consequence will be

that the others will be nullified. The courts are to be under the sanction of the *United States of America*, not of a particular state. They must be supported with dignity, and their judges and other necessary officers will have their salaries stated by *Congress* which will be paid out of the treasury of the *United States*. In this situation, we can easily foresee that in the common and unavoidable course of things, the courts established by subordinate power supported with less splendor and dignity, will at length dwindle into nothing.

Another circumstance should be attended to: The States will be exceedingly strained to support them.

Most of the *ways and means* as they are called are entirely shut out from the State governments.

The tenth section of the first article says, "No state shall, without the consent of Congress lay any imposts or duties on imports or exports, &c. &c. the net produce of all such imposts and duties laid by any state on imports or exports, shall be for the use of the treasury of the United States, and all *such laws* shall be subjected to the revision and *controul* of Congress." What then is to be the mode of raising money for defraying the expences of the state? It is reducing them to the necessity of laying direct taxes, which is egregiously abusive. Most of the states are already groaning under their taxes. Here the *very idea* of state is entirely done away. But on the other hand, the government of the *United States* has an enormous power of raising money in every way as well as that of contracting debts at *pleasure*. To give them the power of laying *taxes, duties, imposts* and *excise*, by way of providing for the *welfare* of the United States, and then constitute them judges of what is necessary for these purposes, is giving them power to satisfy at the expence of the states, any whim which ambition or the love of ostentation might suggest to them. But yet every law thus made will be binding: for they have an additional power expressly granted them, "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all the powers vested by this constitution in the government of the *United States*, or in any *department* or office thereof."

This may from the mode of expression be construed into a *tyrannical* grant to enforce *tyranny* itself. Have the states in this predicament any kind of consequence or power, or are they not rather reduced to inactive *parts* of the same *grand empire*? But the very last clause but one in the constitution proves clearly that the whole country is to be comprised into one large system of lordly government. A tight system indeed. They say that "this constitution and the laws of the *United States*, which shall be made in *pursuance thereof*, and all treaties made or which shall be made under the authority of the United States, shall be the supreme law of the

land, and the judges in every state shall be bound by them or any thing in the constitution or laws of any state to the contrary notwithstanding." Here is at once created a fruitful source of contention and error. What end will there be to the confusion that will arise from the many laws or ordinances of Congress with respect to revenue, viz. *taxes, duties, imposts, &c.* when those of the separate states are to be controuled by them? But what judges are to be bound by them in all cases whatever, notwithstanding any laws to the contrary, that may have been promulgated by any particular state? The judges not only of those inferior *federal* courts which Congress may from time to time establish in any or all the states; but also the judges of the courts immediately dependent on the states themselves. They are to be over-ruled by the *laws* of Congress in "every state," and the laws of every state must be prejudiced in *their* favor.

Can any state, or the citizens of any state think themselves secure when they are conscious that their own laws will not avail them in competition with *those* of Congress? Suppose Congress in making its provision for the *general welfare* of the *United States*, and framing those laws which shall be deemed necessary and *proper* for carrying into execution all their powers, should, in the complex body of them, oppose the general system of state policy, what must be the consequence? It must be laid prostrate in the dust, and yield to the ordinances of Congress, and that according to their own mode of construing them. If this does not open the door to violent oppression, it at least pours upon us a load of inconveniencies. I know it is said that all the powers of Congress must be exercised for the *general welfare*, and have for their object *general* concerns only. But what are these general concerns? May they not without difficulty be construed to the prejudice of *particular concerns*?

Such a construction will certainly follow from the present indefinite mode of expression in this constitution. There is a writer upon the subject who attempts to explain the intentions of the convention in constituting the powers of Congress. He says that, "the first object of the constitution is to *unite* the states into one *compact* society for the purpose of government. If such union must exist or the states be exposed to foreign invasion, internal discord, reciprocal encroachments on each other's property—to weakness and infamy, which no person will deny—what powers must be collected and lodged in the supreme head or legislature of these states? The answer is easy. The legislature must have exclusive jurisdiction in all matters where the states have a mutual interest. There are some regulations in which all the states are equally concerned—there are others which in their operations are limited to one state. The former belong to Congress, the latter to the respective legislatures. No one state has a right to supreme controul in any affair in which the other states

have an interest; nor should Congress interfere in any affair which respects one state only. This is the general line of division which the convention have endeavoured to draw between the powers of Congress and the rights of individual states."²⁰ The states in their separate capacity cannot provide for their common defence, nay, in case of a civil war, one state cannot secure its existence. The only question therefore is, whether it is necessary to unite and provide for the general *welfare*?

For this question being once answered in the affirmative, leaves no room to doubt the propriety of constituting a power over the United States, adequate to these *general purposes*. This was spending time in vain, for it is known, and are invincibly acknowledged that the power of Congress should extend to every case where the interests of the United States are clearly found to be mutual. But pray cannot Congress, after having ascertained this union of interests, and constituted proper powers in all cases to which it applies, proceed one step farther and form an over-ruled system of government in the country, in this compact situation? Is there not a wide difference between just constituting powers adequate to general purposes, and proceeding regularly beyond it to the establishing of a supreme authority over the states in this collective view? The distinction is wide and apparent. Upon a candid examination it will be found that the combination of them both exists in the constitution.

It hath been said that the objection with respect to the freedom of the Press is not valid, because the power of controuling that is lodged with the several states.

A little consideration will show that this, though perhaps just in itself, is but a specious pretext. Congress have power to lay all duties of whatever kind, and although they could not *perhaps* directly bar the freedom of the Press, yet they can do it in the exercise of the powers that are expressly decreed to them. Remember there are such things as *stamp duties* and that these will as effectually abolish the freedom of the press as any express declaration.

It is said however, that the legislatures of the several states will not dwindle away, because they have the sole right of electing the senate. This indeed is all, and such as it is, it will not last long. "Ladislaus of Poland, who was elected emperor after the temporary reign of Sigismund, having relinquished the right of imposing taxes, called an assembly of prelates, barons, and military gentlemen, in their respective provinces, in order to obtain an additional tribute. The *provincial assemblies* gave birth to the dietines; which now no longer retain the power of raising money in their several districts, but only elect the nuncios or representatives for the diet."²¹ And is it expected that when the legislatures of the states are reduced to mere *boards of electors*, they will long continue so? No, this

last dreg of power will at length vanish. Nominal power is always a disgrace unsupported by reality.

That our boasted republic will ere long wear the face of an aristocracy may easily be seen. The foundation of the Venetian aristocracy is well known. "The city was divided into six districts, called sestiers. The council of forty proposed that each of these partitions should name two electors, amounting to twelve in all, who should have the power of choosing from the whole city four hundred and twenty, who should have the whole power of the general assembly, and be called the grand council. The people were amused with fine promises and order of regularity, and consoled with *assertions* that their right of election still continued, and that those who should not be chosen one year, might be the next, and not perceiving that this law would be fatal to *their* power, suffered that aristocracy to be thus founded, which exists to this hour. The next proposal was that a committee of eleven should be appointed to name the doge. Though the design of reducing the people to nothing might have been easily seen in these manœuvres, yet the people wearied, irritated, and discouraged by eternal discords, agreed to both."²² Thus easy may be the gradation of these states.

The proposed constitution is evidently not calculated to coalesce with human nature in another respect. The executive, as vested in the president is too pointedly supreme. The fears of the people will and ought easily to be agitated by such an extent of power in a single man; particularly, if the situation of that man be such as will easily permit any gratification of partiality or ambition.

Suppose we ask the question, whether it would not be better to substitute in the room of a *single* executive magistrate, a *sovereign executive council*, consisting of one counsellor chosen from each state by the executive thereof, with a president of such council, who should be only *primus inter pares* to be chosen from among themselves by the joint ballot of the council and senate, or the former only?

This council to have the appointment of all officers under the federal government, instead of the senate and president, the former of which should have no executive or other powers whatever in that department; but should act merely in a legislative capacity, in conjunction with the house of representatives. There is another idea to be suggested, that in just policy no money bill should be altered or amended in any way by the senate.

But the correction of one part is precluded by an error in another; for here the inequality of representation in the lower house rises into view, and prevents our observing any thing further.

Upon the whole, it is evident that this constitution carries in its figure the strongest features of political ambition, beneath the charming delusion of a fair complexion.

It hath been made an objection to this constitution, that the legislative and executive are not kept perfectly distinct and separate.

This, I think, is not valid. The executive should have a check on the legislative for this simple reason—that the executive hath its own limits—but the legislative independent of it, would have none at all.

To make laws is unconfined and indefinite, but to execute them when made, is limited by their existence.

But from the executive's having an undue influence over the legislative, I must confess, I have a great aversion.

The division among the senators is unintelligible.^(p)

The next thing that we come to speak of, is the mode of laying taxes. All direct taxes are to be apportioned among the several states according to their respective numbers.

This is a great and a fundamental error. Direct taxes should always be apportioned according to extent of territory. In framing the present confederation in 1778, this was held to be an essential point. Article 8th says, "all charges of war and other expences which shall be incurred for the common defence and general welfare, and allowed for by the United States in Congress assembled, shall be defrayed out of the common treasury, which shall be supplied by the several states in proportion to the value of land in each state, &c." The value of land in a country increases with its riches, and therefore forms a just criterion. There are many reasons which might be offered to show that the number of inhabitants in any state is an improper measure of apportioning taxes. The inhabitants of some states may be numerous and poor, and those of another, few and wealthy.

The truth is, the ratios both of inhabitants and wealth, conspire to shew that the extent of territory is the only proper measure in apportioning taxes among the several states. Commerce creates wealth, but at the same time luxury and high life, and these again a decrease of inhabitants.

The luxury that is derived from commercial wealth always tends to stop population. From this it clearly appears that the apportioning of taxes according to numbers is not just. On the contrary, the state of agriculture is more favourable to population, but not to wealth. Indeed land must, in the nature of things, afford a just measure. It is true that the value of land is dependent on circumstances. But the richer the country grows, the more valuable the land. The extent of land in Massachusetts is small in proportion to its inhabitants, but yet it is more

valuable—in Virginia it is very great in proportion to the inhabitants, but yet it is not so valuable.

Let direct taxes be apportioned according to the value of land in each state, and it must be just for this reason, that the value of land always increases in an exact proportion to the riches of the country.

Hitherto we have been considering the blemishes of the constitution as they stately exist—other objects are derived from omission. Among these the grand one, upon which is indeed suspended every other, is the omission of a bill of rights.

The remarker upon the address of the sixteen members has answered their objection with much force. “I answer (says he) *this is not true*, it contains a declaration of many rights, and very important ones, i.e. that people shall be obliged to fulfil their contracts, and not avoid them by *tenders* of any thing less than the value stipulated—that no *ex post facto* laws shall be made, &c.”²³

The gentleman has here very wittily mistaken the sense of the two terms right and obligation.

They are correlative terms, and between two parties, whenever the former applies to the one, the latter of necessity applies to the other. Whatever any one has a *right* to expect from me, I am *obliged* to render him. He might as well have said that the constitution gave the people a *right* to submit to Congress in every thing, and that we have a *right* to pay the last farthing of compliance to their despotic whims.

What he mentions is the enforcing of *obligation* and not the declaring of *right*.

One of the learned members of the late convention—the honorable Mr. Wilson observes in his speech, that all powers which are not by the constitution given up to Congress, are reserved for the disposition of the several states.²⁴ This observation is wise and true, because properly speaking it should be so. In entering into the social compact, all rights which are not expressly given up to the governors are reserved to the people. That it is so from a just construction it is easy to discover.

But notwithstanding, if the people are jealous of their rights, where will be the harm in declaring them? If they be meant as they certainly are to be reserved to the people, what injury can arise from a positive declaration of it? Although in reasoning it would appear to be unnecessary, yet if the people prefer having their rights stately defined, it is certainly reasonable, that it should be done. I am well acquainted with the logical reason, that is general given for it.

It is said that the insertion of a bill of rights, would be an argument against the present liberty of the people.

To have the rights of the people declared to them, would imply, that they had previously given them up, or were not in possession of them.

This indeed is a distinction of which the votaries of scholastic philosophy might be proud—but in the political world, where reason is not cultivated independently of action and experience, such futile distinctions ought not to be agitated.

In fact, it does not exist, for I should think, it is as rational to declare the right of the people to what they already possess, as to decree to them any new rights. If the people do really possess them, there can be no harm in expressing what is meant to be understood.

A bill of rights should either be inserted, or a declaration made, that whatever is not decreed to Congress, is reserved to the several states for their own disposal.

In this particular, the articles of the present confederation have an evident advantage. The second article says, that “each state retains its *sovereignty, freedom and independence*, and every *power, jurisdiction, and right, which is not* by this confederation *expressly declared* to United States in Congress assembled.”

This will appear the more proper, if we consider that these *are rights* in which all the states are concerned. It is thought proper to delegate to Congress supreme power on all occasions where the *natural* interests of the states are concerned, and why not for the same reason grant and declare to the states a bill of *those rights* which are also *mutual*?

At any rate it is certain that no injury can arise from it, and to do it, would be satisfactory and wise.

On the whole, my fellow-citizens, this constitution was *conceived* in wisdom; the thanks of the United States are justly due to the members of the late convention.

But let their productions pass again through the furnace.

Do not give them even the opportunity of depriving you of your rights and privileges, and that without breaking over any restraint imposed by the constitution.

Because this once granted they will be fully enabled in the present age to lay the gentle foundation of despotic power, and after a temporary interval of seeming humanity between you and succeeding generations, to rivet upon *them* the chains of slavery beyond the possibility of a rupture.

To guard against this, I could wish to see the proposed constitution revised and corrected.

If the States are not to be *confederated*, let them be reduced to one compact body.

And if a perfect consolidation of the States is to take place, if the people are to become the source of power, and if Congress is to represent them as the head of this grand body politic, in the name of all that is dear to freemen, permit not the veins through which the life of government itself is to flow from the *heart* to the *head*, be any way obstructed—let the passages be free & open that *vital* heat may *animate* every *limb*.

That if all the States were to offer their objections, the constitution would be reduced to nothing, is an ill founded idea.

The good natured similarity which the citizen of America discovered between this constitution and a piece of painting, is perfectly erroneous.²⁵

All painting is addressed to the *sense* and relished by *taste* which is various and fluctuating—but this constitution is addressed to the *understanding*, and judged of by *reason* which is fixed and true.

The constitution is for the most part good, and perhaps many of the objections which have been made to it, arise from our not being able to discern *clearly* the collective interest of the states.

Some of them however, in all probability exist beyond contradiction.

Let the convention of each State make its exceptions, then let a future and general one receive them all, and reconcile them with as much wisdom as possible.

This would certainly be some refinement.

It *could* do no *harm*, but *might* do much *good*.

To conclude, my friends and fellow-citizens, have the proposed constitution revised, corrected and amended—have every dubious expression be made plain and clear—have every power accurately defined and well understood, and your own rights and privileges clearly stated, or a declaration made that all powers that are not by this constitution delegated to Congress, are reserved for your own disposal.

Then and not till then, will impartial justice rule over our land, and America become the theatre of equity and wisdom, as she has already been the field of patriotism and bravery.

This once obtained, we shall be happy and free, and having enjoyed the blessings of peace and plenty under the ample shade of the tree of *liberty*, we shall deliver them down unimpaired by the corrosive influence of time to the latest posterity.

V.P.

“*Quod bonum, faustumque sit nobis patriæque nostræ, sic enim nos perpetuam felicitatem Reipublicæ, precari existimamus.*”²⁶

[“A Federal Republican’s” Errata and Notes]

(a) For to take *some* notice, *read*, to take notice.

(b) For panegirics *or* those, *read*, *on* those.

- (c) For *immediately*, read, *immoderately*.
- (d) For *government*, read, *governments*.
- (e) For *executing*, read, *exerting*.
- (f) For *have*, read, *had*.
- (g) For *members*, read, *numbers*.
- (h) For *effects*, read, *affects*.
- (i) For *establishing* a superiority, read, *the establishing of* a superiority.
- (j) For *effected*, read, *affected*.
- (k) At this point "Federal Republican" noted: "To give a circumstantial proof of the absurdity of this, we shall mention a [case?] that lately took place. A gentleman who was in company with a member [of?] convention, with whom he was acquainted, and who had signed the constitution, was mentioning some of the most common objections to it. Among others was this: the member of convention replied, That there was no such clause in it. Did this arise from his ignorance or a consciousness that it was unjust and absurd? *Justitia sese non condemnat.*"
- (l) For *don't*, read *do not*.
- (m) For *extingencies*, read, *extravagancies*.
- (n) For *attend to the constitution*, read, *to that part of the constitution*.
- (o) The comma after the word *chaste*, should be after the word *lax*.
- (p) At this point "Federal Republican" noted: "What was observed on the division of the senate in page 13, refers only to the four first years after the establishment of this constitution, if it should ever be ratified. But whether they are not the most important, and whether what in consequence of it begins ill, will not continue so, ought to be considered."

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

2. For "A Democratic Federalist," *Pennsylvania Herald*, 17 October, see CC:167.

3. For "Centinel" (Samuel Bryan) I and III, see *Philadelphia Independent Gazetteer*, 5 October and 8 November (CC:133, 243), and for "Centinel" II, see *Philadelphia Freeman's Journal*, 24 October (CC:190).

4. For the "Address of the Seceding Assemblymen," 2 October, and for "Remarks on the Address" by "A Citizen of Philadelphia" (Pelatiah Webster), 18 October, see CC:125 A-B.

5. For "A Citizen of America" (Noah Webster), *An Examination into the Leading Principles of the Federal Constitution*, 17 October, see CC:173 and Mfm:Pa. 142.

6. *Spirit of Laws*, I, Book XIX, chapter XXVII, 456.

7. Except where noted, all italics in this and later quotations were supplied by "A Federal Republican."
8. See "A Federal Republican's" note (p).
9. *Spirit of Laws*, I, Book II, chapter II, 13.
10. For "An American Citizen" IV (Tench Coxe), 21 October, see CC:183-A.
11. See CC:292, note 2.
12. See "A Citizen of Philadelphia" (Pelatiah Webster), 18 October (CC:125-B).
13. *Spirit of Laws*, I, Book XIII, chapter I, 305.
14. See "Brutus" I, *New York Journal*, 18 October (CC:178). "Brutus" I was reprinted in the *Pennsylvania Packet* on 26 October.
15. See Bernard de Mandeville, *The Fable of the Bees; or Private Vices Publick Benefits* (London, 1714).
16. See note 5 above.
17. *Spirit of Laws*, I, Book XI, chapter VI, 222.
18. The quotation, altered somewhat by "A Federal Republican," is from "Centinel" II (CC:190), who quoted Blackstone's *Commentaries*, Book III, chapter XXIII, 379, 380. "Centinel" himself altered and excerpted material from Blackstone's passage. Only the words "named by executive authority" were italicized by "A Federal Republican."
19. Adams, *Defence of the Constitutions*, I, Letter XXII, 85-86.
20. See note 5 above.
21. Adams, *Defence of the Constitutions*, I, Letter XXII, 76.
22. *Ibid.*, Letter XIX, 61.
23. See note 12 above. Except for the words "ex post facto," the italics are "A Federal Republican's."
24. See note 1 above.
25. See note 5 above.
26. A corrupted version of a passage in Suetonius, *The Lives of the Caesars*, Book II, chapter 58, in which "A Federal Republican" wishes good fortune and divine favor for his native country and prays for the lasting happiness of the American republic.

304 A-C. Maryland's Constitutional Convention Delegates Address the State House of Delegates, 29 November

When the Maryland legislature elected delegates to the Constitutional Convention, it required the delegates "to report the proceedings of the said convention, and any act agreed to therein, to the next session of the general assembly" (CDR, 222). The delegates transmitted a copy of the Constitution to Governor William Smallwood, who sent it to the legislature on 24 November. The preceding day the House of Delegates had voted 28 to 22 to request the Convention delegates to attend the House on 29 November to give information about the Convention. Antifederalists supported the proposal, while Federalists were divided. Some Marylanders believed that the vote was an attempt by Antifederalists to "draw every Embarrassment in the way of the intended new Government . . ." (Richard Curson to Horatio Gates, 28 November, Gates Papers, NHi). It was expected that Convention delegate Luther Martin, an opponent of the Constitution, would "harrangue on the *mischievous intrigues & plots* of the Convention—On this subject he is almost frantic & will talk for hours" (William Tilghman to Tench Coxe, 25 November, Tench Coxe Papers, Series II, Correspondence and General Papers, PHi).

Four of the state's five Convention delegates appeared on 29 November—Daniel Carroll, Daniel of St. Thomas Jenifer, James McHenry, and Luther Martin. The fifth delegate—John Francis Mercer—did not attend. The delegates were dismissed by the House on 30 November. Copies of McHenry's and Martin's speeches have survived (CC:304 A-B), while Carroll described the actions of the delegates in a letter to Benjamin Franklin on 2 December (CC:304-C). For Constitutional Convention speeches by Benjamin Franklin that were read to the Maryland House of Delegates by McHenry and Carroll, see Farrand, I, 197-200; II, 641-43; and CC:77-A.

304-A. *James McHenry's Speech, 29 November*¹

MaryLand Novr. 29 1787-

The Delegates to the late Convention being call'd before the House of Representatives to explain the principles, upon which the proposed Constitution for the United States of America were formed

Mr. McHenry addressed the House in the followg terms

Mr. Speaker

Convention having deposited their proceedings with their Worthy President, and by a Resolve prohibited any copy to be taken, under the Idea that nothing but the Constitution thus framed and submitted to the Public could come under their consideration, I regret that at this distant period, I am unable from Memory to give this Honorable House so full and accurate information as might possibly be expected on so important and interesting a Subject. I Collated however from my Notes as soon as the Pleasure of this House was made known to me such of the proceedings as pass'd under my observation from an anxious desire I have to give this Honorable Body the information they require-

It must be within the Knowledge of this House Mr Speaker that the plan of a Convention originated in Virginia—accordingly when it met at Philadelphia the objects of the meeting were first brought forward in an address from an Honorable Member of that state.² He premised that our present Constitution had not and on further experiance would be found that it could not fulfill the objects of the Confederation.

1st It has no sufficient provision for internal defence nor against foreign invasion, if a State offends it cannot punish; nor if the rights of Embassadors or foreign Nations be invaded have the Judges of the respective States competent Jurisdiction to redress them. In short the Journals of Congress are nothing more than a History of expedients, without any regular or fixed system, and without power to give them efficacy or carry them into Execution-

2nd. It does not secure the seperate States from Sedition among themselves nor from encroachments against each other-

3rd. It is incapable of producing certain blessings the Objects of all good governments, Justice, Domestic Tranquillity, Common Defence

Security to Liberty and general Welfare—Congress have no powers by imposts to discharge their internal engagements or to sustain their Credit with Foreigners they have no powers to restrain the Emission of Bills of Credit issued to the destruction of foreign Commerce—the perversion of National Justice and violation of private Contracts—they have no power to promote inland Navigation, encourage Agriculture or Manufactures

4th. They have no means to defend themselves against the most direct encroachments—in every Congress there is a party opposed to Federal Measures—In every state even there is a party opposed to efficient Government, the wisest regulations may therefore [be] thwarted and evaded: the Legislature be treated with insult and derision and there is no power, no force to carry their Laws into execution, or to punish the Offenders who oppose them.

5th. The Confederation is inferior to the State Constitutions and cannot therefore have that controul over them which it necessarily requires—the State Governments were first formed and the federal Government derived out of them wherefore the Laws of the respective States are paramount and cannot be controuled by the Acts of Congress—

He then descanted with Energy on our respective situations from New Hampshire to Georgia, on the Situation of our joint National Affairs at Home and abroad and drew the Conclusion that all were on the brink of ruin and desolation—That once dissolve the tie by which we are united and alone preserved and the prediction of our Enemies would be compleat in the blood shed in contending and opposite interests—That perhaps this was the last, the only opportunity we should ever have to avoid or remedy those impending evils—The Eyes of all actuated by hopes or fears were fixed upon the proceedings of this Convention and if the present meeting founded in a spirit of Benevolence and General Good, did not correct, or reform our present Situation, it would end most assuredly in the Shame and ruin of ourselves and the Tryumph of others—He therefore moved that it be “Resolved the Articles of the Confederation ought to be corrected and enlarged” and for that purpose submitted certain resolves to the further Consideration of the Convention³—Convention being thus in possession of these propositions on the thirtieth of May Resolved to go into a consideration of them when the Honorable Gentleman who first brought them forward moved to withdraw the two first Resolutions, and to substitute the following in lieu of them—1st. That the Union of the States ought to be founded on the basis of Common Defence, security to Liberty, and General Welfare⁴ 2d. That to this end the right of Suffrage ought to be in proportion to the value of the property contributing to the expence of General Gov-

ernment or to the free Inhabitants that compose such Government—3rd. That a National Government ought to be formed with Legislative and Judicial Powers.—At this period Mr. Speaker I was suddenly call'd from Philadelphia by an account that one of my nearest and Dearest relations was at the point of Death, and did not return 'till the 4th of August—Convention had formed a Committee of Detail in my absence, which on the sixth of August brought in their report,⁵ that had for its Basis the propositions handed from Virginia, and with some amendments is the Constitution now submitted to the People—⁶

S: 2 To this Section it was objected that if the qualifications of the Electors were the same as in the State Governments, it would involve in the Federal System all the Disorders of a Democracy: and it was therefore contended, that none but Freeholders, permanently interested in the Government ought to have a right of Suffrage—the Venerable Franklin opposed to this the natural rights of Man—their rights to an immediate voice in the general Assemblage of the whole Nation, or to a right of Suffrage & Representation and he instanced from general History and particular events the indifference of those, to the prosperity and Welfare of the State who were deprived of it—⁷

Residence was likewise thought essential to interest the Human heart sufficiently by those ties and affections it necessarily creates to the general prosperity—at first the report of the Committee had extended it to three Years only, but on better consideration it was altered to seven; And the Period of Twenty five Years deemed a necessary Age to mature the Judgement and form the mind by habits of reflection and experience—Little was said on this subject it passed without any considerable opposition and therefore I was not at the pains to note any other particulars respecting it—

That the Representatives should be appointed according to Numbers occasioned a very long, interesting and serious Debate the Larger States warmly contended for this Regulation and were seriously opposed by the lesser—by the latter it was contended it threw too much power into the hands of the former, and it was answered by the former that Representation ought to be according to property, or numbers, and in either case they had a right to such influence as their Situation gave them, on the contrary if each State had an equal voice, it would unreasonably throw the whole power in the lesser States—In the end a compromise took place by giving an equal Voice to each state in the Senate which 'till then the larger States had contended ought to be formed like the other branch by a Representation according to numbers—

S 3d. The Classing the Senate so as to produce the proposed change was established by Convention on the principle that a Rotation of power

is essential to Liberty No qualification of property was adopted, that merit alone might advance unclogged by such restriction. It did not pass however unattempted; but the proposed rate of property by the South, was thought much too high by the East, as that by the East on the Contrary was deemed too low by the South.-

The Committee of Detail by their report had at first given to the Senate the choice of their own President but to avoid Cabal and undue influence, it was thought better to alter it. And the power of trying impeachments was lodged with this Body as more likely to be governed by cool and candid investigation, than by those heats that too often inflame and influence more populous Assemblies

S 4. It was thought expedient to vest the Congress with the powers contained in this Section, which particular exigencies might require them to exercise, and which the immediate representatives of the People can never be supposed capable of wantonly abusing to the prejudice of their Constituents—Convention had in Contemplation the possible events of Insurrection, Invasion, and even to provide against any disposition that might occur hereafter in any particular State to thwart the measures of the General Government on the other hand by an Assembly once a Year Security is Annually given to the People against encroachments of the Governments on their Liberty.

S 5. Respects only the particular privileges and Regulations of each branch of the Legislature.

S 6. That the attendance of Members in the General Legislature at a great distance from their respective abodes might not be obstructed and in some instances prevented either by design or otherwise in withholding any Compensation for their Services, Convention thought it most adviseable to pay them out of the General Treasury, otherwise a representation might some times fail when the Public Exigence might require that attendance—Whether any Members of the Legislature should be Capable of holding any Office during the time for which he was Elected created much division in Sentiment in Convention; but to avoid as much as possible every motive for Corruption, was at length settled in the form it now bears by a very large Majority.

S: 7. Much was also said on the Priviledge that the immediate Representatives of the People had in originating all Bills to create a Revenue: It was opposed by others on the principle that, in a Government of this Nature flowing from the People without any Hereditary rights existing in either Branch of the Legislature, the public Good might require, and the Senate ought to possess powers coexistent in this particular with the House of Representatives The Larger States hoped for an advantage by confirming this priviledge to that Branch where their

numbers predominated, and it ended in a compromise by which the Lesser States obtained a power of amendment in the Senate—The Negative given to the President underwent an amendment, and was finally restored to its present form, in the hope that a Revision of the subject and the objections offered against it might contribute in some instances to perfect those regulations that inattention or other motives had at first rendered imperfect—

S 8. The power given to Congress to lay taxes contains nothing more than is comprehended in the spirit of the eighth article of the Confederation.⁸ To prevent any Combination of States, Duties, Imposts and Excises shall be equal in all, and if such a Duty is laid on foreign Tonage as to give an advantage in the first instance to the Eastern States, it will operate as a bounty to our own Ship-builders. If an oppressive Act should be obtained to the prejudice of the Southern States, it will always be subject to be regulated by a Majority, and would be repealed as soon as felt. That at most it could prevail no longer than 'till that Jealousy should be awakened which must have slept when it passed, and which could never prevail but under a supposed Combination of the President and the two Houses of the Legislature.

S. 9. Convention were anxious to procure a perpetual decree against the Importation of Slaves; but the Southern States could not be brought to consent to it—All that could possibly be obtained was a temporary regulation which the Congress may vary hereafter.

Public safety may require a suspension of the Habeas Corpus in cases of necessity: when those cases do not exist, the virtuous Citizen will ever be protected in his opposition to power, 'till corruption shall have obliterated every sense of Honor & Virtue from a Brave and free People. Convention have also provided against any direct or Capitation Tax but according to an equal proportion among the respective States: This was thought a necessary precaution though it was the idea of every one that government would seldom have recourse to direct Taxation, and that the objects of Commerce would be more than sufficient to answer the common exigencies of State and should further supplies be necessary, the power of Congress would not be exercised while the respective States would raise those supplies in any other manner more suitable to their own inclinations—That no Duties shall be laid on Exports or Tonage, on Vessels bound from one State to another is the effect of that attention to general Equality that governed the deliberations of Convention. Hence unproductive States cannot draw a revenue from productive States into the Public Treasury, nor unproductive States be hampered in their Manufactures to the emolument of others. When the Public Money is lodged in its Treasury there can be no regulation more con-

sistant with the Spirit of Economy and free Government that it shall only be drawn forth under appropriations by Law and this part of the proposed Constitution could meet with no opposition as the People who give their Money ought to know in what manner it is expended.

That no Titles of Nobility shall be granted by the United States will preserve it is hoped, the present Union from the Evils of Aristocracy.

S: 10. It was contended by many that the States ought to be permitted to Emit Bills of Credit where their local Circumstances might require it without prejudice to the obligations arising from private Contracts; but this was overruled by a vast Majority as the best security that could be given for the Public faith at home and the extension of Commerce with Foreigners.

Article the 2nd.

S: 1st. The Election of the President according to the Report of the Committee of Detail was intended to have been by ballot of both Houses; to hold his appointment for Seven Years, and not be Capable to be reelected; but this mode gave an undue influence to the large States, and paved the way to faction and Corruption—all are guarded against by the present method, as the most exalted Characters can only be Known throughout the whole Union—His power when elected is check'd by the Consent of the Senate to the appointment of Officers, and without endangering Liberty by the junction of the Executive and Legislative in this instance.

Article the 3rd.

S: 1st. The judicial power of the United States underwent a full investigation—it is impossible for me to Detail the observations that were delivered on that subject—The right of tryal by Jury was left open and undefined from the difficulty attending any limitation to so valuable a privilege, and from the persuasion that Congress might hereafter make provision more suitable to each respective State—To suppose that mode of Tryal intended to be abolished would be to suppose the Representatives in Convention to act contrary to the Will of their Constituents, and Contrary to their own Interest.—

Thus Mr. Speaker I have endeavour'd to give this Honorable House the best information in my power on this important Subject—Many parts of this proposed Constitution were warmly opposed, other parts it was found impossible to reconcile to the Clashing Interest of different States—I myself could not approve of it throughout, but I saw no prospect of getting a better—the whole however is the result of that spirit of Amity which directed the wishes of all for the general good, and where those sentiments govern it will meet I trust, [with?] a Kind and Cordial reception.—

304-B. Luther Martin's Speech, 29 November⁹

MaryLand Novr. 29th. 1787.-

Mr. Speaker.

When I join'd the Convention I found that Mr. Randolph had laid before that Body certain propositions for their consideration, and that Convention had entered into many Resolutions, respecting their manner of conducting the Business one of which was that seven States might proceed to Business, and therefore four States composing a Majority of seven, might eventually give the Law to the whole Union. Different instructions were given to Members of different States¹⁰—the Delegates from Delaware were instructed not to infringe their Local Constitution—others were prohibited their assent to any duty in Commerce: Convention enjoined all to secrecy; so that we had no opportunity of gaining information by a Correspondence with others; and what was still more inconvenient extracts from their Journals were prohibited even for our own information—It must be remembered that in forming the Confederacy the State of Virginia proposed, and obstinately contended ('tho unsupported by any other) for representation according to Numbers: and the second resolve now brought forward by an Honourable Member from that state was formed in the same spirit that characteriz'd its representatives in their endeavours to increase its powers and influence in the Federal Government. These Views in the larger States, did not escape the observation of the lesser and meetings in private were formed to counteract them: the subject however was discuss'd with coolness in Convention, and hopes were formed that interest might in some points be brought to Yield to reason, or if not, that at all events the lesser states were not precluded from introducing a different System; and particular Gentlemen were industriously employed in forming such a System at those periods in which Convention were not sitting.

At length the Committee of Detail brought forward their Resolutions¹¹ which gave to the larger States the same inequality in the Senate that they now are proposed to have in the House of Representatives—Virginia, Pensylvania and Massachusetts would have one half—all the Officers and even the President were to be chosen by the Legislature: so that these three States might have usurped the whole power. The President would always have been from one of the larger States and so chosen to have an absolute negative, not only on the Laws of Congress, but also on the Laws of each respective State in the Union. Should the representation from the other States be compleat, and by a Miracle ten States be so united as upon any occasion to procure a Majority; yet the President by his Negative might defeat the best intentions for the public good. Such a Government would be a Government by a Junto

and bind hand and foot all the other States in the Union On this occasion the House will please to remember that Mr. Bo was in the Chair, and General Washington and the Venerable Franklin on the floor, and led by State influence, neither of them objected to this System, but on the Contrary it seemed to meet their warm and cordial approbation¹²—I revere those worthy Personages as much as any man can do, but I could not compliment them by a sacrifice of the trust reposed in me by this State by acquiescing in their opinion. Then it was Mr. Speaker that those persons who were labouring for the general good, brought forward a different System—The absence of Mr. McHenry unhappily left Maryland with only two representatives, and they differed: New Hampshire Delegates were also absent. Mr. Patterson from Jersey introduced this new System,¹³ by which it was proposed, that the Laws of the Confederacy should be the Laws of each State—and therefore the State Judiciaries to have Cognizance in the first instance and the Federal Courts to have an Apellant Jurisdiction only—

The first measure that took place on the Jersey System was to pass a vote not to receive it—Three parties now appeared in Convention; one were for abolishing all the State Governments; another for such a Government as would give an influence to particular States—and a third party were truly Federal, and acting for general Equality—They were for considering, reforming and amending the Federal Government, from time to time as experience might point out its imperfections, 'till it could be made competent to every exigence of State, and afford at the same time ample security to Liberty and general Welfare But this scheme was so opposite to the views of the other two, that the Monarchical Party¹⁴ finding little chance of succeeding in their wishes joined the others and by that measure plainly shewed they were endeavouring to form such a Government as from its inequality must bring in time their System forward, or at least much nearer in practice than it could otherwise be obtained—

When the principles of opposition were thus formed and brought forward by the 2d. S: respecting the manner of representation, it was urged by a Member of Pensylvania, that nothing but necessity had induced the larger States to give up in forming the Confederacy, the Equality of Representation according to numbers—That all governments flowed from the people, and that their happiness being the end of governments they ought to have an equal Representation.¹⁵ On the contrary it was urged by the unhappy Advocates of the Jersey System that all people were equally Free, and had an equal Voice if they could meet in a general Assembly of the whole. But because one Man was stronger it afforded no reason why he might injure another, nor because ten

leagued together, they should have the power to injure five; this would destroy all equality. That each State when formed, was in a State of Nature as to others, and had the same rights as Individuals in a State of Nature—If the State Government had equal Authority, it was the same as if Individuals were present, because the State Governments originated and flowed from the Individuals that compose the State—and the Liberty of each State was what each Citizen enjoyed in his own State and no inconvenience had yet been experienced from the inequality of representation in the present Federal Government. Taxation and representation go hand and hand, on the principle alone that, none should be taxed who are not represented; But as to the Quantum, those who possess the property pay only in proportion to the protection they receive—The History of all Nations and sense of Mankind shew, that in all former Confederacies every State had an equal voice. Moral History points out the necessity that each State should vote equally—In the Cantons of Switzerland those of Be[r]ne & Lucerne have more Territory than all the others, yet each State, has an equal voice in the General Assembly. The Congress in forming the Confederacy adopted this rule on the principle of Natural right—Virginia then objected. This Federal Government was submitted to the consideration of the Legislatures of the respective States and all of them proposed some amendments;¹⁶ but not one that this part should be altered. Hence we are in possession of the General Voice of America on this subject.—

When baffled by reason the larger States positively refused to yield—the lesser refused to confederate, and called on their opponents to declare what security they could give to abide by any plan or form of Government that could now be devised—The same reasons that now exist to abolish the old, might be urged hereafter to overthrow the New Government, and as the methods of reform prescribed by the former were now utterly disregarded, as little ceremony might be used in discarding the latter—It was further objected that the large States would be continually increasing in numbers, and consequently their influence in the National Assembly would increase also: That their extensive Territories were guaranteed and we might be drawn out to defend the enormous extent of those States, and encrease and establish that power intended in time to enslave ourselves—Threats were thrown out to compel the lesser States to confederate—They were told this would be the last opportunity that might offer to prevent a Dissolution of the Union, that once dissolve that Band which held us together and the lesser States had no security for their existence, even for a moment—The lesser States threatened in their turn that they would not lay under the imputation of refusing to confederate on equitable conditions; they threatened to pub-

lish their own offers and the demands of others, and to appeal to the World in Vindication of their Conduct.-

At this period there were eleven States represented in Convention on the question respecting the manner of appointing Delegates to the House of Representatives-Massachusetts, Pennsylvania, Virginia, North Carolina, South Carolina, and Georgia adopted it as now handed to the consideration of the People.-Georgia now insignificant, with an immense Territory, looked forward to future power and Aggrandizement, Connecticut, New York, Jersey, and Delaware were against the Measure and Maryland was unfortunately divided-On the same question respecting the Senate, perceiving the lesser States would break up Convention altogether, if the influence of that branch was likewise carried against them, the Delegates of Georgia differed in sentiment not on principle but on expediency, and fearing to lose every thing if they persisted, they did not therefore vote being divided, Massachusetts, Pennsylvania, Virginia, North Carolina, and South Carolina were in the affirmative, and New York, Connecticut, Jersey, Delaware & Maryland were in the Negative. Every thing was now at a stand and little hopes of agreement, the Delegates of New York had left us determined not to return,¹⁷ and to hazard every possible evil rather than to Yield in that particular; when it was proposed that a conciliating Committee should be formed of one member from each State-Some Members positively refused to lend their names to this measure others compromised, and agreed that if the point was relinquished by the larger States as to the Senate-they would sign the proposed Constitution and did so, not because they approved it but because they thought something ought to be done for the Public-Neither General Washington nor Franklin shewed any disposition to relinquish the superiority of influence in the Senate. I now proposed Convention should adjourn for consideration of the subject, and requested leave to take a Copy of their proceedings, but it was denied, and the Avenue thus shut to information and reflection-¹⁸

Article 1st.

S: 1st. A Government consisting of two Branches advocated by some was opposed by others-That a perfect Government necessarily requiring a Check *over them* did not require it over *States* and History could furnish no instance of such a second branch in Federal Governmts. The seperate States are competent to the Government of Individuals and a Government of *States* ought to be *Federal*, and which the object of calling Convention, and not to establish a *National Government*. It begins We the People-And the powers are made to flow from them in the first instance. That in Federal Governments an equal voice in each State is essential,

as being all in a *State of Nature* with respect to each other Whereas the only figure in this Constitution that has any resemblance to a federal one, is the equality of Senate—but the 4th Section gives the power to Congress to strike out, at least to render Nugatory this, the most valuable part of it. It cannot be supposed that any State would refuse to send Representatives, when they would be bound whether they sent Deputies or not, and if it was intended to relate to the cases of Insurrection or Invasion, why not by express words confine the power to these objects?

S: 6th. By this Article the Senators when elected are made independant of the State they represent. They are to serve six Years, to pay themselves out of the General Treasury, and are not paid by the State, nor can be recalled for any misconduct or sacrifice of the Interest of their State that they make before the expiration of that period. They are not only Legislative, but make a part of the Executive, which all wise Governments have thought it essential to keep seperated. They are the National Council; and none can leave their private concerns and their Homes for such a period and consent to such a service, but those who place their future views on the emoluments flowing from the General Government—Tho' a Senator cannot be appointed to an office created by himself, He may to any that has been antecedently established; and by removing Old Officers, to new Offices, their places may be occupied by themselves and thus the Door opened to evade and infringe the Constitution. When America was under the British Dominion every matter was conducted within a narrow Circle in the Provincial Government, greatly to the ease and convenience of the people. The Habits thus acquired are opposed to extensive Governments, and the extent of this, as a National one, cannot possibly be ever carried into effect—

S: 2: Slaves ought never to be considered in Representation, because, they are Property. They afford a rule as such in Taxation; but are Citizens intrusted in the General Government, no more than Cattle, Horses, Mules or Asses; and a Gentleman in Debate very pertinently observed that he would as soon enter into Compacts, with the Asses Mules, or Horses of the Ancient Dominion as with their Slaves—When there is power to raise a revenue by direct Taxation, each State ought to pay an equal Ratio; Whereas by taxing Commerce some states would pay greatly more than others.

S: 7: It was contended that the Senate derived their powers from the People and therefore ought to have equal priviledges to the Representatives. That it would remove all ground for contest about originating Money Bills, what Bills were so or not, and how far amendments might be made, but nothing more could be obtained from the power of the larger States on that subject than what appears in the proposed Consti-

tution. In Great Britain the King having Hereditary rights, and being one of the three Estates that compose the Legislature has obtained a Voice in the passage of all Acts that bear the title of Laws. But the Executive here have no distinct rights, nor is their President likely to have more understanding than the two Branches of the Legislature. Additional weight is thus unnecessarily given to the large States who voting by numbers will cohere to each other, or at least among themselves, and thus easily carry, or defeat any measure that requires a Majority of two thirds.

S: 8: By the word Duties in this Section is meant Stamp Duties. This power may be exercised to any extent; but it has likewise this dangerous tendency it may give the Congress power by establishing duties on all Contracts to decide on cases of that nature, and ultimately draw the decision of the Federal Courts, which will have sufficient occupation by the other powers given in this Section. They are extensive enough to open a sluice to draw the very blood from your Veins. They may lay direct Taxes by assessment, Poll Tax, Stamps, Duties on Commerce, and excise every thing else—all this to be collected under the direction of their own Officers, and not even provided that they shall be Inhabitants of the respective States where they are to act and for which many reasons will not be the case: and should any Individual dare to dispute the conduct of an Excise Man, ransacking his Cellars he may be hoisted into the Federal Court from Georgia to vindicate his just rights, or to be punished for his impertinence. In vain was it urged that the State Courts ought to be competent to the decision of such cases: The advocates of this System thought State Judges would be under State influence and therefore not sufficiently independent. But this is not all, they would either trust your Juries for altho matters of Fact are triable by Juries in the Inferior Courts the Judges of the Supreme Court on *appeal* are to decide on *Law* and *fact* both. In this Manner Mr. Speaker our rights are to be tried in all disputes between the Citizens of one State and another, between the Citizens and Foreigners, and between the Citizens and these Revenue Officers of the General Government as to other cases the Constitution is silent, and it is very doubtful if we are to have the privilege of Tryal by Jury at all, where the cause originates in the supreme Court.—Should the power of these Judiciaries be incompetent to carry this extensive plan into execution, other, and more certain Engines of power are supplied by the standing Army unlimited as to number or its duration, in addition to this Government has the entire Command of the Militia, and may call the whole Militia of any State into Action, a power, which it was vainly urged ought never to exceed a certain proportion. By organizing the Militia Congress have taken the whole power

from the State Governments; and by neglecting to do it and encreasing the Standing Army, their power will increase by those very means that will be adopted and urged as an ease to the People.-

Nothing could add to the mischeivous tendency of this system more than the power that is given to suspend the Act of Ha: Corpus-Those who could not approve of it urged that the power over the Ha: Corpus ought not to be under the influence of the General Government. It would give them a power over Citizens of particular States who should oppose their encroachments, and the inferior Jurisdictions of the respective States were fully competent to Judge on this important privilege; but the Almighty power of deciding by a call for the question, silenced all opposition to the measure as it too frequently did to many others.

S: 9: By this Article Congress will obtain unlimited power over all the Ports in the Union and consequently acquire an influence that may be prejudicial to general Liberty. It was sufficient for all the purposes of General Government that Congress might lay what Duties they thought proper, and those who did not approve the extended power here given, contended that the Establishment of the Particular ports ought to remain with the Government of the respective States; for if MaryLand for instance should have occasion to oppose the Encroachments of the General Government-Congress might direct that all Vessels coming into this Bay, to enter and clear at Norfolk, and thereby become as formidable to this State by an exercise of this power, as they could be by the Military Arrangments or Civil Judiciaries. That the same reason would not apply in prohibiting the respective States from laying a Duty on Exports, as applied to that regulation being exercised by Congress: in the latter case a revenue would be drawn from the productive States to the General Treasury, to the ease of the unproductive, but particular States might be desirous by this method to contribute to the support of their Local Government or for the Encouragement of their Manufactures.

Article 2nd.

S: 1st. A Variety of opinion prevailed on this Article-Mr. Hamilton of New York wanted the President to be appointed by the Senate, others by both Branches, others by the People at large-others that the States as States ought to have an equal voice-The larger States wanted the appointment according to numbers those who were for a one Genl. Government, and no State Governments, were for a choice by the People at large, and the very persons who would not trust the Legislature to vote by States in the Choice, from a fear of Corruption, yet con-

tended nevertheless for a Standing Army, and before this point was finally adjusted I had left the Convention—

As to the Vice President, the larger States have a manifest influence and will always have him of their choice. The power given to these persons over the Army, and Navy, is in truth formidable, but the power of Pardon is still more dangerous, as in all acts of Treason, the very offence on which the prosecution would possibly arise, would most likely be in favour of the Presidents own power.—

Some would gladly have given the appointment of Ambassadors and Judges to the Senate; some were for vesting this power in the Legislature by joint ballot, as being most likely to know the Merit of Individuals over this extended empire. But as the President is to nominate, the person chosen must be ultimately his choice and he will thus have an army of civil officers as well as Military—If he is guilty of misconduct and impeached for it by the first branch of the Legislature he must be tried in the second, and if he keeps an interest in the large States, he will always escape punishment—The impeachment can rarely come from the second branch, who are his Council and will be under his influence.

S: 3rd. It was highly reasonable that Treason against the United States should be defined; resistance in some cases is necessary and a Man might be a Traitor to the General Government in obeying the Laws of his own State, a Clause was therefore proposed that wherever any State entered into Contest with the General Governmt. that during such Civil War, the general Law of Nations, as between Independant States should be the governing rule between them; and that no Citizen in such case of the said State should be deemed guilty of Treason, for acting against the General Government, in Conformity to the Laws of the State of which he was a member: but this was rejected.—

Article 6th.

The ratification of this Constitution is so repugnant to the Terms on which we are all bound to amend and alter the former, that it became a matter of surprise to many that the proposition could meet with any countenance or support. Our present Constitution expressly directs that all the States must agree before it can be dissolved; but on the other hand it was contended that a Majority ought to govern—That a dissolution of the Federal Government did not dissolve the State Constitutions which were paramount the Confederacy. That the Federal Government being formed out of the State Governments the People at large have no power to interfere in the *Federal Constitution* Nor has the *State* or *Federal* Government any power to confirm a new Institution. That this Government if ratified and Established will be *immediately* from

the *People*, paramount the *Federal Constitution* and operate as a dissolution of it.—

Thus Mr. Speaker [I have given to this?] Honorable House such information, as my situation enabled me to do, on the Subject of this proposed Constitution. If I have spoke with freedom, I have done no more than I did in Convention. I have been under no influence from the expectation of ever enjoying any Office under it, and would gladly yield what little I have saved by Industry, and the Emoluments of my profession to have been able to present it to the Public in a different form. I freely [own that it did not?] meet my approbation, [and?] [- - -] [- - -] this House will [do?] [- - -] [- - -] believe that [I have conducted myself?] [- - -] [- - -] [- - -] [- - -] freeman and a faithful servant of the [- - -] [- - -] [- - -] [- - -] to the best of my Judgement for the Ge[- - -] [- - -] [- - -] [- - -]

304-C. *Daniel Carroll to Benjamin Franklin*
*Annapolis, 2 December*¹⁹

Some occurrences having taken place since the meeting of our Legislature, of such a nature that I wish you to be informd of them more clearly than I can do by letter, I hope Majr. McHenry who was in Convention with me for this State will have an opportunity of delivering this letter *himself*—This leads to a Subject which gives me considerable uneasiness. I am afraid you will think, that I have transgressd on your act of Kindness, when I inform you that I have been compelld to make use of yr observations deliverd in the Cōmittee of Convention on the Subject of Representation, & those deliverd on the 17th. of Sepr.²⁰—The House of Delegates having pass'd a Resolve requesting the attendance of their Deputies to give them information of the proceedings in Convention, Messrs. McHenry, Jenifer, Martin, & myself attended. I have reason to think the Motion for that purpose originated from an Antifederal disposn., but believe many concur'd in it from the purest motives—

We thought it necessary to attend to prevent as far as in our power the impressions which might be receivd from the picture we knew Mr. Martin wou'd draw, & it woud have afforded pleasure & a pretext for their purposes to the Antifederalists, if we had refus'd to attend—It appeared in the Course of the business, that our presence was *indeed necessary*

Alltho' Mr McHenry distinguisd himself on this occasion, beyond the most sanguine hopes of his friends, and the expectations of the adverse party, Such motives were imputed to many of the Members, to Genl Washington and yrself by name, and such a misrepresentation made, that I found myself compelld to let Mr. McHenry *read* yr̄ 1st speech all-

ready mentiond, and to *read* myself that deliverd on the 17th of Sept. after having giveing a *just* relation in what manner they were receivd by me, & that I did it at the risk of \bar{y} r displeasure, for the public Good-

I had not cōmunicated these speeches to any but Messrs. Ths Johnson Mr Carroll of Carrollton & my Brother²¹ untill this occasion, nor have I sufferd any copy to be taken nor will not *without \bar{y} r permission* to persons *I can depend On* to be usd occasionally for the same purpose I have done it, or will do any thing else with them you may require-

If you will honor me with a few lines they may relieve me from the anxiety I now feel-

Mr Carroll of Carrollton to rememberd to you Kindestt manner-

1. MS, John Leeds Bozman Papers, DLC. The manuscript is in the handwriting of Archibald Golder, one of the committee clerks of the Maryland House of Delegates. McHenry (1753-1816) was a Baltimore merchant. In 1771 he had emigrated from Ireland to Philadelphia, and shortly after he studied medicine with Benjamin Rush. He then entered into a mercantile partnership with his father and brother in Baltimore. In 1776 McHenry was appointed a surgeon in the Continental Army, but he abandoned the practice of medicine upon becoming Washington's secretary in 1778. Two years later he became Lafayette's aide de camp, attaining the rank of major. McHenry served in the Maryland Senate from 1781 to 1786, in Congress from 1783 to 1785, and in the state Convention, where he voted to ratify the Constitution in April 1788. He attended the Constitutional Convention from 28 to 31 May and from 6 August until the Convention's adjournment on 17 September 1787.

A correspondent in the *Maryland Journal*, 7 December, wrote that "Doctor M'Henry acquitted himself to Admiration;-he has shewn himself the Federalist, the Politician and the Gentleman, as well as the Citizen of this State.-He compared and measured many Parts objected to, with each other-other Parts of the same Instrument, and with other Propositions, as a graduated Scale, and ascertained their Differences as with Dividers. I do no Man Injury, nor shall I give Offence, I believe, in saying, his Knowledge of this Subject is the most comprehensive, his Ideas the most distinct, and his Explanations the shortest, clearest, and most satisfactory of any Gentleman's I have met with.-I am really charmed with him."

2. For McHenry's notes of Edmund Randolph's speech to the Convention on 29 May, see Farrand, I, 24-27.

3. For the Virginia resolutions of 29 May, see CDR, 243-45; Farrand, I, 20-22, 27-28.

4. McHenry did not quote the entire resolution from his notes. The resolution reads: "That a union of the States merely federal will not accomplish the object proposed by the articles of confederation, namely 'common defence, security of liberty, and general welfare'" (Farrand, I, 40). For Randolph's other resolutions, see Farrand, I, 30, 31, 33, 35, 40, 41.

5. For the Committee of Detail report, see CDR, 260-69; Farrand, II, 177-89.

6. The third page of McHenry's manuscript ends abruptly here. The next page begins with a discussion of Article I, section 2 of the Constitution.

7. See Benjamin Franklin's speech of 11 June (Farrand, I, 197-200). McHenry, who had left the Convention by 1 June, had obtained a copy of Franklin's speech from Daniel Carroll (CC:304-C).

8. Article VIII of the Articles of Confederation provided that Congress requisition the states for money to pay for "All charges of war, and all other expences that shall be

incurred for the common defence or general welfare. . . ." Taxes were to be "laid and levied by the authority and direction of the legislatures of the several states . . ." (CDR, 89). For similar arguments, see Roger Sherman and Oliver Ellsworth to Governor Samuel Huntington, 26 September, CC:192; and "A Citizen of New Haven" (Roger Sherman), *Connecticut Courant*, 7 January 1788, RCS:Conn., 525, 526.

9. MS, John Leeds Bozman Papers, DLC. Like McHenry's speech, the manuscript is in the handwriting of Archibald Golder. Martin (c. 1748-1826), Maryland's attorney general since 1778, first attended the Constitutional Convention on 9 June and left on 4 September. He was absent from 7 to 12 August. Martin voted against ratification of the Constitution in the state Convention in April 1788. His speech to the House of Delegates was expanded and reorganized in his "Genuine Information" (CC:389), which was printed in twelve installments in the Baltimore *Maryland Gazette* between 28 December and 8 February 1788.

10. For the appointments of and instructions to the delegates to the Convention, see CDR, 192-225.

11. On 13 June the Committee of the Whole of the Convention reported the amended Virginia resolutions, but consideration of them was postponed while William Paterson's proposed amendments were debated (see note 13 below). The Committee of Detail did not make its report until 6 August. Martin corrected this error in the first installment of his "Genuine Information," which included the text of the amended Virginia resolutions (CC:389). For the resolutions, see CDR, 247-50; Farrand, I, 224-32, 235-37.

12. Nathaniel Gorham of Massachusetts was chairman of the Committee of the Whole. Gorham, Washington, and Franklin each represented a large state that stood to gain from the adoption of the amended Virginia resolutions.

13. On 15 June William Paterson presented an alternative to the amended Virginia resolutions, consisting of several amendments to the Articles of Confederation, which were submitted to the Committee of the Whole of the Convention. At the same time, the amended Virginia resolutions were recommitted so that the two plans could be compared (CDR, 250-53; Farrand, I, 241-47). On 19 June the Committee of the Whole rejected the New Jersey amendments and reported the amended Virginia resolutions (*ibid.*, 312-13). Maryland's two delegates, Martin and Jenifer, were divided. New Hampshire's delegates, John Langdon and Nicholas Gilman, first attended the Convention on 23 July.

14. For additional charges by Martin, fellow Maryland delegate John Francis Mercer, and others that a monarchical party existed in the Convention, see Farrand, III, 66, 306, 319-24, and "Genuine Information," Baltimore *Maryland Gazette*, 1 January 1788, CC:401. On the question of monarchical tendencies in America, see CC:51.

15. On 9 June James Wilson stated "that as all authority was derived from the people, equal numbers of people ought to have an equal no. of representatives, and different numbers of people different numbers of representatives. This principle had been improperly violated in the Confederation, owing to the urgent circumstances of the time." William Paterson, speaking in defense of the New Jersey amendments, replied to Wilson on 16 June (Farrand, I, 179-80, 250-51, 258-59, 274, 275).

16. For the amendments to the Articles of Confederation proposed by the states, see CDR, 96-137.

17. Robert Yates and John Lansing, Jr. left the Convention on 10 July, and thereafter Alexander Hamilton attended sporadically. Even when Hamilton was in attendance, New York did not have a vote because it was represented by only one delegate.

18. On 25 July a motion that the delegates might "take copies of the resolutions which have been agreed to" by the Convention, was defeated 6 states to 5. Maryland voted no

(Farrand, II, 107-8, 115). In his "Genuine Information," Martin said that he made the motion (Baltimore *Maryland Gazette*, 4 January 1788, CC:414).

19. RC, Franklin Papers, PPAmP. Carroll (1730-1796), a signer of the Articles of Confederation, was a Montgomery County planter. He was a member of the Maryland Senate and was elected to the U.S. House of Representatives in January 1789.

20. For Franklin's speech of 11 June, see Farrand, I, 197-200; for his speech of 17 September, see *ibid.*, II, 641-43, and CC:77-A.

21. Thomas Johnson (1732-1819), a Frederick County lawyer-planter, was Maryland's first governor from 1777 to 1779. He was a member of the Maryland Senate, and he voted to ratify the Constitution in the state Convention in April 1788. Charles Carroll of Carrollton (1737-1832), Daniel Carroll's cousin, was an Anne Arundel County planter, who also had an estate (Carrollton) in Frederick County. He had signed the Declaration of Independence and had been selected as a delegate to the Constitutional Convention, but declined to serve. He was a member of the Maryland Senate and was elected to the U.S. Senate in December 1788. John Carroll (1735-1815), Daniel's brother, was Superior of Catholic Missions (prefect apostolic) of the United States. In 1789 he was appointed the first American bishop.

305. A Countryman III

New Haven Gazette, 29 November¹

To the PEOPLE of Connecticut.

The same thing once more.—I am a plain man, of few words; for this reason perhaps it is, that when I have said a thing I love to repeat it. Last week² I endeavoured to evince, that the only surety you could have for your liberties must be in the nature of your government; that you could derive no security from bills of rights, or stipulations, on the subject of a standing army, the liberty of the press, trial by jury, or on any other subject. Did you ever hear of an absolute monarchy, where those rights which are proposed by the pigmy politicians of this day, to be secured by stipulation, were ever preserved? Would it not be mere trifling to make any such stipulations, in any absolute monarchy?

On the other hand, if your interest and that of your rulers are the same, your liberties are abundantly secure. Perhaps the most secure when their power is most compleat. Perhaps a provision that they should never raise troops in time of peace, might at some period embarrass the public concerns and endanger the liberties of the people. It is possible that in the infinite variety of events, it might become improper strictly to adhere to any one provision that has ever been proposed to be stipulated. At all events, the people have always been perfectly safe without any stipulation of the kind, when the rulers were interested to make them safe; and never otherwise.

No people can be more secure against tyranny and oppression in their rulers than you are at present; and no rulers can have more supreme and unlimited authority than your general assembly have.

When you consult on the subject of adopting the new constitution, you do not enquire whether the powers therein contained can be safely lodged in any hands whatever. For not only those very powers, but all other powers are already in the general assembly.—The enquiry is, whether Congress is by this new constitution so formed that a part of the power now in the general assembly would be as well lodged in Congress. Or, as was before said, it depends on how Congress is formed; how far the Members are under your controul; and how far their interest and yours are the same; to which careful attention must be given.

1. Reprinted: *New York Journal*, 5 December. For the authorship of “A Countryman,” see CC:261.

2. See “A Countryman” II (CC:284).

306. Brutus IV

New York Journal, 29 November¹

To the PEOPLE of the State of NEW-YORK.

There can be no free government where the people are not possessed of the power of making the laws by which they are governed, either in their own persons, or by others substituted in their stead.

Experience has taught mankind, that legislation by representatives is the most eligible, and the only practicable mode in which the people of any country can exercise this right, either prudently or beneficially. But then, it is a matter of the highest importance, in forming this representation, that it be so constituted as to be capable of understanding the true interests of the society for which it acts, and so disposed as to pursue the good and happiness of the people as its ultimate end. The object of every free government is the public good, and all lesser interests yield to it. That of every tyrannical government, is the happiness and aggrandisement of one, or a few, and to this the public felicity, and every other interest must submit.—The reason of this difference in these governments is obvious. The first is so constituted as to collect the views and wishes of the whole people in that of their rulers, while the latter is so framed as to separate the interests of the governors from that of the governed. The principle of self love, therefore, that will influence the one to promote the good of the whole, will prompt the other to follow its own private advantage. The great art, therefore, in forming a good constitution, appears to be this, so to frame it, as that those to whom the power is committed shall be subject to the same feelings, and aim at the same objects as the people do, who transfer to them their authority. There is no possible way to effect this but by an equal, full and fair representation; this, therefore, is the great desideratum in politics. However fair an appearance any government may make, though it may

possess a thousand plausible articles and be decorated with ever so many ornaments, yet if it is deficient in this essential principle of a full and just representation of the people, it will be only like a painted sepulcher—For, without this it cannot be a free government; let the administration of it be good or ill, it still will be a government, not according to the will of the people, but according to the will of a few.

To test this new constitution then, by this principle, is of the last importance—It is to bring it to the touch-stone of national liberty, and I hope I shall be excused, if, in this paper, I pursue the subject commenced in my last number,² to wit, the necessity of an equal and full representation in the legislature.—In that, I showed that it was not equal, because the smallest states are to send the same number of members to the senate as the largest, and, because the slaves, who afford neither aid or defence to the government, are to encrease the proportion of members. To prove that it was not a just or adequate representation, it was urged, that so small a number could not resemble the people, or possess their sentiments and dispositions. That the choice of members would commonly fall upon the rich and great, while the middling class of the community would be excluded. That in so small a representation there was no security against bribery and corruption.

The small number which is to compose this legislature, will not only expose it to the danger of that kind of corruption, and undue influence, which will arise from the gift of places of honor and emolument, or the more direct one of bribery, but it will also subject it to another kind of influence no less fatal to the liberties of the people, though it be not so flagrantly repugnant to the principles of rectitude. It is not to be expected that a legislature will be found in any country that will not have some of its members, who will pursue their private ends, and for which they will sacrifice the public good. Men of this character are, generally, artful and designing, and frequently possess brilliant talents and abilities; they commonly act in concert, and agree to share the spoils of their country among them; they will keep their object ever in view, and follow it with constancy. To effect their purpose, they will assume any shape, and, Proteus like, mould themselves into any form—where they find members proof against direct bribery or gifts of offices, they will endeavor to mislead their minds by specious and false reasoning, to impose upon their unsuspecting honesty by an affectation of zeal for the public good; they will form juntos, and hold out-door meetings; they will operate upon the good nature of their opponents, by a thousand little attentions, and seize them into compliance by the earnestness of solicitation. Those who are acquainted with the manner of conducting business in public assemblies, know how prevalent art and address are in

carrying a measure, even over men of the best intentions, and of good understanding. The firmest security against this kind of improper and dangerous influence, as well as all other, is a strong and numerous representation: in such a house of assembly, so great a number must be gained over, before the private views of individuals could be gratified that there could be scarce a hope of success. But in the fœderal assembly, seventeen men are all that is necessary to pass a law. It is probable, it will seldom happen that more than twenty-five will be requisite to form a majority, when it is considered what a number of places of honor and emolument will be in the gift of the executive, the powerful influence that great and designing men have over the honest and unsuspecting, by their art and address, their soothing manners and civilities, and their cringing flattery, joined with their affected patriotism; when these different species of influence are combined, it is scarcely to be hoped that a legislature, composed of so small a number, as the one proposed by the new constitution, will long resist their force. A farther objection against the feebleness of the representation is, that it will not possess the confidence of the people. The execution of the laws in a free government must rest on this confidence, and this must be founded on the good opinion they entertain of the framers of the laws. Every government must be supported, either by the people having such an attachment to it, as to be ready, when called upon, to support it, or by a force at the command of the government, to compel obedience. The latter mode destroys every idea of a free government; for the same force that may be employed to compel obedience to good laws, might, and probably would be used to wrest from the people their constitutional liberties.—Whether it is practicable to have a representation for the whole union sufficiently numerous to obtain that confidence which is necessary for the purpose of internal taxation, and other powers to which this proposed government extends, is an important question. I am clearly of opinion, it is not, and therefore I have stated this in my first number,³ as one of the reasons against going into so an entire consolidation of the states—one of the most capital errors in the system, is that of extending the powers of the fœderal government to objects to which it is not adequate, which it cannot exercise without endangering public liberty, and which it is not necessary they should possess, in order to preserve the union and manage our national concerns; of this, however, I shall treat more fully in some future paper—But, however this may be, certain it is, that the representation in the legislature is not so formed as to give reasonable ground for public trust.

In order for the people safely to repose themselves on their rulers, they should not only be of their own choice. But it is requisite they should be

acquainted with their abilities to manage the public concerns with wisdom. They should be satisfied that those who represent them are men of integrity, who will pursue the good of the community with fidelity; and will not be turned aside from their duty by private interest, or corrupted by undue influence; and that they will have such a zeal for the good of those whom they represent, as to excite them to be diligent in their service; but it is impossible the people of the United States should have sufficient knowledge of their representatives, when the numbers are so few, to acquire any rational satisfaction on either of these points. The people of this state will have very little acquaintance with those who may be chosen to represent them; a great part of them will, probably, not know the characters of their own members, much less that of a majority of those who will compose the fœderal assembly; they will consist of men, whose names they have never heard, and of whose talents and regard for the public good, they are total strangers to; and they will have no persons so immediately of their choice so near them, of their neighbours and of their own rank in life, that they can feel themselves secure in trusting their interests in their hands. The representatives of the people cannot, as they now do, after they have passed laws, mix with the people, and explain to them the motives which induced the adoption of any measure, point out its utility, and remove objections or silence unreasonable clamours against it.—The number will be so small that but a very few of the most sensible and respectable yeomanry of the country can ever have any knowledge of them: being so far removed from the people, their station will be elevated and important, and they will be considered as ambitious and designing. They will not be viewed by the people as part of themselves, but as a body distinct from them, and having separate interests to pursue; the consequence will be, that a perpetual jealousy will exist in the minds of the people against them; their conduct will be narrowly watched; their measures scrutinized; and their laws opposed, evaded, or reluctantly obeyed. This is natural, and exactly corresponds with the conduct of individuals towards those in whose hands they intrust important concerns. If the person confided in, be a neighbour with whom his employer is intimately acquainted, whose talents, he knows, are sufficient to manage the business with which he is charged, his honesty and fidelity unsuspected, and his friendship and zeal for the service of his principal unquestionable, he will commit his affairs into his hands with unreserved confidence, and feel himself secure; all the transactions of the agent will meet with the most favorable construction, and the measures he takes will give satisfaction. But, if the person employed be a stranger, whom he has never seen, and whose character for ability or fidelity he cannot fully learn—If he is con-

strained to choose him, because it was not in his power to procure one more agreeable to his wishes, he will trust him with caution, and be suspicious of all his conduct.

If then this government should not derive support from the good will of the people, it must be executed by force, or not executed at all; either case would lead to the total destruction of liberty.—The convention seemed aware of this, and have therefore provided for calling out the militia to execute the laws of the union. If this system was so framed as to command that respect from the people, which every good free government will obtain, this provision was unnecessary—the people would support the civil magistrate. This power is a novel one, in free governments—these have depended for the execution of the laws on the *Posse Comitatus*, and never raised an idea, that the people would refuse to aid the civil magistrate in executing those laws they themselves had made. I shall now dismiss the subject of the incompetency of the representation, and proceed, as I promised, to shew, that, impotent as it is, the people have no security that they will enjoy the exercise of the right of electing this assembly, which, at best, can be considered but as the shadow of representation.

〈By section 4, article 1, the Congress are authorized, at any time, by law, to make, or alter, regulations respecting the time, place, and manner of holding elections for senators and representatives, except as to the places of choosing senators. By this clause the right of election itself, is, in a great measure, transferred from the people to their rulers.—One would think, that if any thing was necessary to be made a fundamental article of the original compact, it would be, that of fixing the branches of the legislature, so as to put it out of its power to alter itself by modifying the election of its own members at will and pleasure. When a people once resign the privilege of a fair election, they clearly have none left worth contending for.〉

It is clear that, under this article, the foederal legislature may institute such rules respecting elections as to lead to the choice of one description of men. The weakness of the representation, tends but too certainly to confer on the rich and *well-born*, all honours; but the power granted in this article, may be so exercised, as to secure it almost beyond a possibility of controul. The proposed Congress may make the whole state one district, and direct, that the capital (the city of New-York, for instance) shall be the place for holding the election; the consequence would be, that none but men of the most elevated rank in society would attend, and they would as certainly choose men of their own class; as it is true what the *Apostle Paul* saith, that “no man ever yet hated his own flesh, but nourisheth and cherisheth it.”⁴—They may declare that those mem-

bers who have the greatest number of votes, shall be considered as duly elected; the consequence would be that the people, who are dispersed in the interior parts of the state, would give their votes for a variety of candidates, while any order, or profession, residing in populous places, by uniting their interests, might procure whom they pleased to be chosen—and by this means the representatives of the state may be elected by one tenth part of the people who actually vote. This may be effected constitutionally, and by one of those silent operations which frequently takes place without being noticed, but which often produces such changes as entirely to alter a government, subvert a free constitution, and rivet the chains on a free people before they perceive they are forged. Had the power of regulating elections been left under the direction of the state legislatures, where the people are not only nominally but substantially represented, it would have been secure; but if it was taken out of their hands, it surely ought to have been fixed on such a basis as to have put it out of the power of the federal legislature to deprive the people of it by law. Provision should have been made for marking out the states into districts, and for choosing, by a majority of votes, a person out of each of them of permanent property and residence in the district which he was to represent.

⟨If the people of America will submit to a constitution that will vest in the hands of any body of men a right to deprive them by law of the privilege of a fair election, they will submit to almost any thing. Reasoning with them will be in vain, they must be left until they are brought to reflection by feeling oppression—they will then have to wrest from their oppressors, by a strong hand, that which they now possess, and which they may retain if they will exercise but a moderate share of prudence and firmness.

I know it is said that the dangers apprehended from this clause are merely imaginary, that the proposed general legislature will be disposed to regulate elections upon proper principles, and to use their power with discretion, and to promote the public good. On this, I would observe, that constitutions are not so necessary to regulate the conduct of good rulers as to restrain that of bad ones.—Wise and good men will exercise power so as to promote the public happiness under any form of government. If we are to take it for granted, that those who administer the government under this system, will always pay proper attention to the rights and interests of the people, nothing more was necessary than to say who should be invested with the powers of government, and leave them to exercise it at will and pleasure. Men are apt to be deceived both with respect to their own dispositions and those of others.⟩ Though this truth is proved by almost every page of the history of nations, to wit,

that power, lodged in the hands of rulers to be used at discretion, is almost always exercised to the oppression of the people, and the aggrandizement of themselves; yet most men think if it was lodged in their hands they would not employ it in this manner.—Thus when the prophet *Elisha* told *Hazael*, “I know the evil that thou wilt do unto the children of Israel; their strong holds wilt thou set on fire, and their young men, wilt thou slay with the sword, and wilt dash their children, and rip up their women with child.” *Hazael* had no idea that he ever should be guilty of such horrid cruelty, and said to the prophet, “Is thy servant a dog that he should do this great thing.” *Elisha*, answered, “The Lord hath shewed me that thou shalt be king of Syria.”⁵ The event proved, that *Hazael* only wanted an opportunity to perpetrate these enormities without restraint, and he had a disposition to do them, though he himself knew it not.

1. Reprinted: *Philadelphia Independent Gazetteer*, 8 December; *Boston Independent Chronicle*, 20 December. The excerpts within angle brackets were also reprinted on 12 December in the *Philadelphia Freeman’s Journal* with this prefatory statement: “A sensible writer on the proposed constitution, in the *New-York Journal*, under the signature of *BRUTUS*, makes the following judicious remarks on the powers therein granted to Congress respecting elections.” On 1 January 1788 the *Maryland Journal* reprinted the preface and the excerpts. For the authorship and impact of “*Brutus*,” see CC:178.

2. See “*Brutus*” III (CC:264).

3. See “*Brutus*” I, *New York Journal*, 18 October (CC:178).

4. *Ephesians* 5:29.

5. *2 Kings* 8:12–13.

307. *Cincinnatus V: To James Wilson, Esquire* *New York Journal*, 29 November

On 27 November the *New York Journal* reported that “*Cincinnatus*” V and VI had been received and “shall be attended to as soon as possible.” Both essays were continuations of “*Cincinnatus*” series of responses to James Wilson’s speech of 6 October (CC:134). “*Cincinnatus*” V was reprinted in the *Philadelphia Independent Gazetteer* on 15 December, the last day of the Pennsylvania Convention.

“*Centinel*” XIV charged that “*Cincinnatus*” V was not reprinted in *Philadelphia* until two or three days after the Convention adjourned because it “contained very material information about the finances of the union, which strikes at some of the principal arguments in favor of the new constitution” (*Independent Gazetteer*, 5 February 1788. For a similar charge made earlier by “*Centinel*,” see headnote to “*Cincinnatus*” IV, CC:287.).

For the authorship and impact of “*Cincinnatus*,” see CC:222.

Sir, In my former observations on your speech, to your fellow-citizens,¹ explanatory and defensive of the new constitution; it has appeared, by arguments to my judgment unanswerable, that by ratifying the constitution, as the convention proposed it, the people will leave the liberty of the press, and the trial by jury, in civil cases, to the

mercy of their rulers—that the project is to burthen them with enormous taxes, in order to raise and maintain armies, for the purposes of ambition and arbitrary power—that this power is to be vested in an aristocratic senate, who will either be themselves the tyrants, or the support of tyranny, in a president, who will know how to manage them, so as to make that body at once the instrument and the shield of his absolute authority.—Even the Roman Emperors found it necessary to have a senate for this purpose. To compass this object, we have seen powers, in every branch of government, in violation of all principle, and all safety condensed in this aristocratic senate: we have seen the representative, or democratic branch, weakened exactly in proportion to the strengthening the aristocratic, or, what means the same thing, and will be more pleasing to your ear, Mr. Wilson, the republican branch. We have seen with what cunning the power of impeachment is apparently given to the representative of the people, but really to the senate; since, as they advise these measures of government, which experience has shewn, are the general matters of impunity the executive officers will be sure of impeachment when they act in conformity to their will. Impeachment will therefore have no terrors, but for those who displease or oppose the senate.

Let us suppose that the privy councils who advise the executive government in England, were vested with the sole power of trying impeachments; would any man say that this would not render that body absolute; and impeachment to all popular purposes, negatory? I shall appeal to those very citizens, Mr. Wilson, whom you was misleading, -for the propriety of what I am going to observe. They know that their constitution was democratic—that it secured the powers of government in the body of the people. They have seen an aristocratical party rise up against this constitution, and without the aid of such a senate, but from the mere influence of wealth, however unduly obtained, they have seen this aristocracy, under the original title of republicans, procure such a preference in the legislature, as to appoint a majority of the state members in the late convention, out of their body.² Had such a senate, as they have now proposed, been part of your constitution, would the popular part of it, have been in effect more than a name. Can your fellow citizens then doubt that these men planned this senate, to effect the very purpose which has been the constant object of their endeavors, that is to overthrow the present constitution. And can you, O citizens of Philadelphia, so soon forget the constitution which you formed, for which you fought, which you have solemnly engaged to defend—can you so soon forget all this, as to be the willing ministers of that ambition, which aims only at making you its footstool—the confirmers of that con-

stitution, which gives your aristocratic enemies their wish, and must trample your state constitution in the dust. Reflect a moment—who wish to erect an aristocracy among you—Mr. Wilson and his party; who were your delegates in framing the constitution now proposed to you—Mr. Wilson, and his party; who harangues you to smooth its passage to your approbation—Mr. Wilson; who have you chosen to approve of it in your state convention—Mr. Wilson.—O sense where is your guard! shame where is your blush! the intention of a state convention is, that a work of so great moment to your welfare, should undergo an examination by another set of men, uninfluenced by partiality or prejudice in its favor. And for this purpose you are weak enough to send a man, who was in the former convention, and who has not only signed his approbation of it, but stands forward as an agitator for it: is this man unprejudiced? would any man who did not suffer party to overcome all sense of rectitude, solicit or accept so improper a trust? He knows, in the line of his profession, that the having given an opinion upon the same question is a constant ground of challenge to a juryman. And does he think that this question is of less importance and ought less to be guarded against partiality and prejudice, than a common jury cause? He knows that a conscientious man will not sit as a juryman twice on the same cause: and is he in this most momentous cause, less conscientious than a common juryman? What are we to expect from the work of such hands? But you must permit me to lay before you, from your own transactions, farther proofs of Mr. Wilson's consistency, and of his sacred attention to your rights, when he counsels you to adopt the new constitution.

You know that he was one of the convention that formed, and recommended to you, your state constitution. Read what is there laid down as a fundamental principle of liberty—"As standing armies, in the time of peace, *are dangerous to liberty*, they ought not to be kept up." Read now what this identical Mr. Wilson says to you in his speech—"This constitution, it has been farther urged, is of a pernicious tendency, because it tolerates a standing army in time of peace. This has always been a topic of popular declamation, and yet I do not know a nation in the world, which has not found it necessary and useful to maintain the appearance of strength, in a season of the most profound peace." What a change of tone is here.—Formerly the mischief of standing armies was of sufficient moment, to find a place in a most solemn recognition of the fundamental rights of the people; standing armies were dangerous to liberty; but *now* they are only a topic of popular declamation, and are both useful and necessary in a season of the most profound tranquility:—O citizens of Philadelphia! do you hear, do you read, do you reflect? can you believe that the man means either wisely or honestly, who thus palpably

contradicts himself, who treats with such levity, what your constitution declares to be one of your most sacred rights; and who betrays so little knowledge of ancient and modern history, as not to know, that some of the freest republics in the world, never kept up a standing army in time of peace! Can you, O deluded men, not see that the object of all this, is to fix upon you, with your own consent, a strong government that will enable a few proud, intriguing, aristocratical men, to make you the instruments of their avarice and ambition, and trample upon your privileges at pleasure. Your privileges, did I say, I beg your pardon; after a surrender of every thing on your part, into the hands of a few, their pleasure will be your only privileges.

I beg you will pardon me, Mr. Wilson, for this digression: it is not a pleasant one, and I wish the cause of it had never existed. We will return, if you please, to your speech. "When we reflect, you say, how various are the laws, commerce, habits, population, and extent, of the confederated states, this evidence of mutual concession and accommodation ought rather to command a generous applause, than to excite a jealousy and reproach. For my part, my admiration can only be equalled by my astonishment in beholding so perfect a system formed from such heterogeneous materials." What a rhapsody is here; it certainly must have excited equal admiration and astonishment in your audience, and called forth those loud and unanimous testimonies of applause which Doctor Panegyric³ tells us, accompanied your speech. Nil admirari, Mr. Wilson, is a wise lesson, and when you recover from your admiration and astonishment which are always incompatible with truth and reason; I shall ask you what union in the world is so similar in their laws, commerce, habits, population and extent? Is there such difference between Rhode-Island and Virginia, as between Holland and Overysse; between Massachusetts and Georgia, as between Berne and Switz? Do not the several states harmonize in trial by jury of the vicinage; taxation by representation; habeas corpus; religious toleration; freedom of the press; separation of the legislative, executive and judicial functions. Are not these the great principles on which every constitution is founded? In these the laws and habits of the several states are uniform. But I suppose, because the citizens of New-York are not in the habit of being so ostentatious as those of Philadelphia, nor its merchants, of being such speculators in commerce as to fill the papers with bankruptcies; because in Carolina they are in the habit of eating rice, and in Maryland of eating homony; therefore the materials are heterogeneous, out of which this perfect, system; his subject of amazement, was formed.

What was this wonder working concession and accommodation? If they consisted in giving up, or hazarding any of the above fundamental principles of liberty, which I confess seems probable, because some furious spirits in the convention, and such there were, insisted upon it, such conduct may command your generous applause; but trust me, sir, when the people come to feel that their rights have been so basely betrayed by those they trusted, it will command a general execration: And here I cannot avoid remarking on what I have heard and for the truth of which I appeal to you. It is that a member of the late convention said, not very honorably distinguished for his moral or political virtue, admonished his associates that, unless they carried the constitution through before there was time for considering it, there would be no probability of its being adopted.⁴ When I couple this profligate declaration, with the equally profligate measures taken by some persons to force it down in Philadelphia, and with the indecent speed with which others posted to Congress, and then to their several states, to hurry it forward⁵—I confess I cannot help apprehending that such advice has not only [been] given, but followed.

You would next induce us, Mr. Wilson, to believe, that the state sovereignties will not be annihilated, if the general one be established as the convention recommends. Your reason for this is as curious as it is conclusive. Because the state legislatures must nominate the electors of the President once in four years, and chuse a third of the Senate once in two years; therefore they will continue to be sovereign. Sovereignty then consists in electing the members of a sovereignty; to make laws—preside over the administration of justice—command the militia, or force of the state—these I suppose, do not constitute its sovereignty, for these are totally taken away, and yet you are clear the sovereignty remains. Did you think, Sir, that you was speaking to men or to children, when you hazarded such futile observations. Nor are they compensated by the very profound erudition you display in defining the meaning of the word corporation. In common *parlance* we should call this egregious pedantry. Such is the anxiety manifested by the framers of the proposed constitution, for the utter extinction of the state sovereignties, that they were not content with taking from them every attribute of sovereignty; but would not leave them even the name.—Therefore, in the very commencement they prescribe this remarkable declaration—*We the People of the United States*. When the whole people of America shall be thus recognized by their own solemn act, as the people of the United States, I beseech you Sir, to tell us over whom the sovereignty, you say you leave to the several states, is to operate. Did the generous confidence of your fellow citizens, deserve this mockery of their understandings; or inebri-

ated with so unusual a thing as popularity, did you think that every rhapsody you uttered, would be received as reason? That you may not expose yourself again on this subject, give me leave to recommend to you to read Mr. Locke, in whom you will find that sovereignty consists in three things—the legislative, executive, and negotiating powers, all which your constitution takes absolutely away from the several states. In Barbeyrac's Puffendorf, you will find these words, "La souverainete entant quelle prescrit des regles generales pour la conduite de la vie civile, s'appelle pouvoir legislatif—entant qu'elle prononce sur les demeles des citoiens, conformement a ces regles, pouvoir judiciaire—entant qu'elle arme les citoiens contre un ennemie etranger, ou qu'elle leur ordonne de mettre fin aux acts d'hostilités; pouvoir de faire la guerre et la paix; entant qu'elle se choisit des Ministres pour lui aider a prendre soin des affaires publiques; pouvoir d'etablir des magistrats. The sovereignty, inasmuch as it prescribes general rules for the conduct of civil life, is called the legislative power—in deciding controversies among its citizens, conformably to those laws it is called the judiciary power—in arming its citizens against a foreign enemy, or ordering them to cease hostilities; it has the power of war and peace—the appointment of officers to aid it in the case of the public, is the power of establishing magistrates."⁶ Now, Sir, all these attributes of sovereignty, being vested exclusively in your new government, is it not a mockery of common sense to tell us, the state sovereignties are not annihilated? and yet you undertake to prove, that upon their existence depends the existence of the federal plan—and when this mighty undertaking is explained, it is because they must meet once in two years to elect part of the federal sovereignty. O fie! O fie! Mr. Wilson! you had yet some character to lose, why would you hazard it in this manner?

On the subject of taxation, in which powers are to be given so largely by the new constitution, you lull our fears of abuse by venturing to predict "that the great revenue of the United States must and always will be raised by impost"—and you elevate our hopes by holding out, "the reviving and supporting the national credit." If you have any other plan for this, than by raising money upon the people to pay the interest of the national debt, your ingenuity will deserve our thanks. Supposing however, that raising money is necessary to payment of the interest, and such payment requisite to support the credit of the union; let us see how much will be necessary for that end, and how far the impost will supply what we want.

	<i>Dollars.</i>
The arrearages of French and Spanish interest amount now to-	1,500,000
Interest and instalments of do. for 1788,	850,227
Support of government, and its departments, for 1788,-	500,000
Arrears and anticipations of 1787,-	300,000
Interest of domestic debt,-	500,000
	4,650,227

The new Congress then, supposing it to get into operation towards October, 1788, will have to provide for this sum, and for the additional sum of 3,000,000 at least for the ensuing year; which together will make the sum of 7,650,227.

Now let us see how the impost will answer this: Congress have furnished us with their estimate of the produce of the whole imports of America at five per cent. and that is 800,000 dollars: there will remain to provide for, by other taxes, 6,850,227.

We know too, that our imports diminish yearly, and from the nature of things must continue to diminish; and consequently that the above estimate of the produce of the impost, will in all probability, fall much short of the supposed sum. But even without this, it must appear, that you was either intentionally misleading your hearers, or very little acquainted with the subject when you ventured to predict, that the great revenue of the United States would always flow from the impost. The estimate above is from the publications of Congress, and I presume is right. But the sum stated, is necessary to be raised by the new government, in order to answer the expectations they have raised, is not all. The state debts, independent of what each owes to the United States, amount to about 30,000,000 dollars; the annual interest of this is 1,800,000.

It will be expected, that the new government will provide for this also; and such expectation is founded, not only on the promise you hold forth, of its reviving and supporting public credit among us, but also on this unavoidable principle of justice, that is the new government takes away the impost, and other substantial taxes, from the produce of which the several states paid the interest of their debt, or funded the paper with which they paid it. The new government must find ways and means of supplying that deficiency, or in other words of paying the interest in hard money, for in paper as now, it cannot, without a violation of the principles it boasts, attempt to pay. The sum then which it must annually raise in specie, after the first year, cannot be less than 4,800,000: at present, there is not one half of this sum in specie raised in all the states; and yet the complaints of intolerable taxes has pro-

duced one rebellion, and will be mainly operative in the adoption of your constitution.—How you will get this sum is inconceivable, and yet get it you must, or lose all credit. With magnificent promises you have bought golden opinions of all sorts of people, and with gold you must answer them.⁷

1. See “Cincinnatus” I-IV, CC:222, 241, 265, 287.

2. For the election of the Pennsylvania delegates to the Constitutional Convention, see CDR, 199-200; RCS:Pa., 112-20.

3. “Doctor Panegyric” was probably Benjamin Rush (see CC:222, note 3). The *Pennsylvania Herald’s* report of Wilson’s speech indicated that he “was frequently interrupted with loud and unanimous testimonies of approbation” (RCS:Pa., 172).

4. Probably a reference to Gouverneur Morris who, along with Charles Pinckney, on 31 August proposed in the Constitutional Convention that state legislatures should call ratifying conventions “as speedily as circumstances will permit.” Morris explained that “his object was to impress in stronger terms the necessity of calling Conventions in order to prevent enemies to the plan, from giving it the go by. When it first appears, with the sanction of this Convention, the people will be favorable to it. By degrees the State officers, & those interested in the State Govts will intrigue & turn the popular current against it.” Luther Martin responded that “the people would be agst. it [the Constitution]. but for a different reason from that alledged. . . . they would not ratify it unless hurried into it by surprize” (Farrand, II, 478. See also Luther Martin’s reply to “Landholder,” *Maryland Journal*, 21 March 1788.).

5. For the precipitate action taken in Philadelphia and in Pennsylvania, see CC:125, and for Congress’ transmittal of the Constitution to the states, see CC:95.

6. Jean de Barbeyrac, trans., *Le Droit de la Nature et des Gens*. . . . *Traduit du Latin de feu Mr. Le Baron de Pufendorf* (2 vols., Basle, 1732), II, Book VII, chapter IV, section I, 258. The Baron Samuel von Pufendorf’s work was first published in 1672, and Barbeyrac’s translation was first printed in 1706.

7. “A Lunarian” responded: “And depend upon it, if you are ever so foolish as to adopt the new Constitution, you will be obliged to pay the national debt, the annual interest of which, as Cincinnatus has demonstrated, (by saying so) amounts to 4,800,000 dollars; to which we may add, 1,200,000 for the expence of collecting it; It will then amount to six millions of dollars annually. Allowing 3,000,000 inhabitants in the Thirteen United States, it will amount to the enormous sum of two dollars per man, which, if they pay their tax monthly, (which is probably the best mode) it will amount to the sum of one shilling and four-pence per month. If this is not sufficient to frighten you into a rejection of the new Constitution, the Lord have mercy on you, poor miserable bankrupts” (New York *Daily Advertiser*, 20 December).

308. George Washington to David Stuart Mount Vernon, 30 November (excerpts)¹

Your favor of the 14th came duly to hand.—I am sorry to find by it that the opposition is gaining strength.—at this however I do not wonder. The adversaries to a measure are generally, if not always, more active & violent than the advocates; and frequently employ means which the others do not, to accomplish their ends.—

I have seen no publication yet, that ought, in my judgment, to shake the proposed Government in the mind of an impartial public.—In a

word, I have hardly seen any that is not addressed to the passions of the people; and obviously calculated to rouse their fears.—Every attempt to amend the Constitution at *this* time, is, in my opinion, idly vain.—If there are characters who prefer disunion, or separate Confederacies to the general Government which is offered to them, their opposition may, for ought I know, proceed from principle; but as nothing in my conception is more to be deprecated than a disunion, or these separate Confederacies, my voice, as far as it will extend, shall be offered in favor of the latter.—

That there are some writers (and others perhaps who may not have written) who wish to see these States divided into several confederacies is pretty evident. As an antidote to these opinions, and in order to investigate the ground of objections to the Constitution which is submitted to the People, the Fœderalist, under the signature of Publius, is written.—The numbers which have been published I send you.—If there is a Printer in Richmond who is really well disposed to support the New Constitution he would do well to give them a place in his Paper.—They are (I think I may venture to say) written by able men; and before they are finished, will, if I mistake not, place matters in a true point of light.—Altho' I am acquainted with some of the writers who are concerned in this work, I am not at liberty to disclose their names, nor would I have it known that they are sent by *me* to *you* for promulgation. . . .²

If the Convention *was* such a tumultuous, & disorderly body as a certain Gentleman has represented it to be,³ it may be ascribed, in a great degree to some dissatisfied characters who would not submit to the decisions of a majority thereof. . . .

1. RC, Schoff Washington, William L. Clements Library, University of Michigan. Printed: Fitzpatrick, XXIX, 323–24.

2. On 18 November James Madison sent *The Federalist* 1–7 to Washington, suggesting that one of Washington's "confidential correspondents" in Richmond might have them reprinted there (CC:271). *The Federalist* 1–3 were reprinted in the Richmond *Virginia Independent Chronicle* on 12, 19, and 26 December, while numbers 4–5 appeared in the Richmond *Virginia Gazette and Independent Chronicle* on 22 and 29 December.

3. Possibly a reference to George Mason who had made such a statement on 7 October when he sent his objections to Washington. Mason had declared that with "a little Moderation & Temper, in the latter End of the Convention" his objections might have been removed (CC:138).

309. William Dickson to Robert Dickson Goshen, Duplin County, 30 November (excerpt)¹

. . . During the course of the last Summer a Grand convention of Delegates from the Several Stâtes of America were Assembled at Philadelphia. The only Production of their Councils which I have yet seen Published is a Constitution for the United States of America, Submit-

ted to the Legislature of Each State for their Approbation and concurrence, a Coppey or Pamphlet of which for your Amusement, I here inclose you, our General Assembly for this State are now convened, and have it under consideration,² We hear that Debates run high concerning it, the Populace also in the Country are divided in their oppinions concerning it, for my own part I am but a Shallow Pollitition, but there are some parts of it I do not like, -however I expect our Legislature will adopt it in full.

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

How much easier may it be for a President of the United States to Establish himself on a Throne here; Invested with Sovereign Power for the term of four Years at once, and Eligible to the same again at the expiration of that Term. Invested with the Sole command of all our Armies, and no Rival to Circumvent him. I conceive the way is in a Manner laid open and plain before him, shou'd his Ambitious Views inspire him to Aim at Sovereign Power. -However the Constitution of an Empire is too deep and Extensive for my comprehension, therefore it does not become me to cavil with it. . . .

1. FC(?), Dickson MSS, Nc-Ar. Printed: James O. Carr, comp. and ed., *The Dickson Letters* (Raleigh, N.C., 1901), 33-36. The letter has no addressee, but the salutation, "My Dear Cousin," indicates that it was probably written to the Reverend Robert Dickson, a Presbyterian clergyman in Narrow Water, County Down, Ireland. William Dickson (1739-1820), clerk of the Court of Pleas and Quarter Sessions of Duplin County, N.C., represented that county in the first North Carolina Convention in July and August 1788. He voted against ratification of the Constitution without amendments. Two years later Dickson changed his mind about the Constitution: "a better cou'd not be formed for the united States in General; I think it is formed so as to lay the foundation of one of the greatest Empirs now in the world, and from the high opinion I have of the merit of those Illustrious characters who now hold the Reigns of Government, I have no doubt of any Revolution taking place in my day. since I wrote to you on the Subject I had become better reconciled to it" (to Robert Dickson, 28 December 1790, Dickson MSS, Nc-Ar).

2. On 6 December the North Carolina legislature called a state convention to meet on 21 July 1788.

310. Publius: The Federalist 14 New York Packet, 30 November

This essay was written by James Madison. It was reprinted in the New York *Daily Advertiser* and New York *Independent Journal* on 1 December; the Boston *American Herald* on 17 December; and the *Pennsylvania Gazette* on 13 February 1788. The last paragraph was reprinted in five other newspapers by 15 January: Mass. (2), N.Y. (1), Pa. (1), Md. (1). One of these five newspapers, the Poughkeepsie *Country Journal* of 9 January, prefaced its reprinting: "The writer in the New-York papers under the signature of *Publius*, after having treated on the necessity of the UNION of the United States with great energy of reasoning and with equal elegance of Language, concludes his fourteenth number with this tender and animated appeal."

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

The FEDERALIST, No. 14.

To the People of the State of New-York.

We have seen the necessity of the union as our bulwark against foreign danger, as the conservator of peace among ourselves, as the guardian of our commerce and other common interests, as the only substitute for those military establishments which have subverted the liberties of the old world; and as the proper antidote for the diseases of faction, which have proved fatal to other popular governments, and of which alarming symptoms have been betrayed by our own. All that remains, within this branch of our enquiries, is to take notice of an objection, that may be drawn from the great extent of country which the union embraces. A few observations on this subject will be the more proper, as it is perceived that the adversaries of the new constitution are availing themselves of a prevailing prejudice, with regard to the practicable sphere of republican administration, in order to supply by imaginary difficulties, the want of those solid objections, which they endeavor in vain to find.

The error which limits Republican Government to a narrow district, has been unfolded and refuted in preceding papers.¹ I remark here only, that it seems to owe its rise and prevalence, chiefly to the confounding of a republic with a democracy: And applying to the former reasonings drawn from the nature of the latter. The true distinction between these forms was also adverted to on a former occasion.² It is, that in a democracy, the people meet and exercise the government in person; in a republic they assemble and administer it by their representatives and agents. A democracy consequently will be confined to a small spot. A republic may be extended over a large region.

To this accidental source of the error may be added the artifice of some celebrated authors, whose writings have had a great share in

forming the modern standard of political opinions. Being subjects either of an absolute, or limited monarchy, they have endeavored to heighten the advantages or palliate the evils of those forms; by placing in comparison with them, the vices and defects of the republican, and by citing as specimens of the latter, the turbulent democracies of ancient Greece, and modern Italy. Under the confusion of names, it has been an easy task to transfer to a republic, observations applicable to a democracy only, and among others, the observation that it can never be established but among a small number of people, living within a small compass of territory.

Such a fallacy may have been the less perceived as most of the governments of antiquity were of the democratic species; and even in modern Europe, to which we owe the great principle of representation, no example is seen of a government wholly popular, and founded at the same time wholly on that principle. If Europe has the merit of discovering this great mechanical power in government, by the simple agency of which, the will of the largest political body may be concentrated, and its force directed to any object, which the public good requires; America can claim the merit of making the discovery the basis of unmixed and extensive republics. It is only to be lamented, that any of her citizens should wish to deprive her of the additional merit of displaying its full efficacy on the establishment of the comprehensive system now under her consideration.

As the natural limit of a democracy is that distance from the central point, which will just permit the most remote citizens to assemble as often as their public functions demand; and will include no greater number than can join in those functions; so the natural limit of a republic is that distance from the center, which will barely allow the representatives of the people to meet as often as may be necessary for the administration of public affairs. Can it be said, that the limits of the United States exceed this distance? It will not be said by those who recollect that the Atlantic coast is the longest side of the union; that during the term of thirteen years, the representatives of the States have been almost continually assembled; and that the members from the most distant States are not chargeable with greater intermissions of attendance, than those from the States in the neighbourhood of Congress.

That we may form a juster estimate with regard to this interesting subject, let us resort to the actual dimensions of the union. The limits as fixed by the treaty of peace are on the east the Atlantic, on the south the latitude of thirty-one degrees, on the west the Mississippi, and on the north an irregular line running in some instances beyond the forty-fifth degree, in others falling as low as the forty-second. The southern shore

of Lake Erie lies below that latitude. Computing the distance between the thirty-one and forty-five degrees, it amounts to nine hundred and seventy-three common miles; computing it from thirty-one to forty-two degrees to seven hundred, sixty four miles and an half. Taking the mean for the distance, the amount will be eight hundred, sixty-eight miles and three-fourths. The mean distance from the Atlantic to the Mississippi does not probably exceed seven hundred and fifty miles. On a comparison of this extent, with that of several countries in Europe, the practicability of rendering our system commensurate to it, appears to be demonstratable. It is not a great deal larger than Germany, where a Diet representing the whole empire is continually assembled; or than Poland before the late dismemberment, where another national Diet was the depository of the supreme power. Passing by France and Spain, we find that in Great Britain, inferior as it may be in size, the representatives of the northern extremity of the island, have as far to travel to the national Council, as will be required of those of the most remote parts of the union.

Favorable as this view of the subject may be, some observations remain which will place it in a light still more satisfactory.

In the first place it is to be remembered, that the general government is not to be charged with the whole power of making and administering laws. Its jurisdiction is limited to certain enumerated objects, which concern all the members of the republic, but which are not to be attained by the separate provisions of any. The subordinate governments which can extend their care to all those other objects, which can be separately provided for, will retain their due authority and activity. Were it proposed by the plan of the Convention to abolish the governments of the particular States, its adversaries would have some ground for their objection, though it would not be difficult to shew that if they were abolished, the general government would be compelled by the principle of self-preservation, to reinstate them in their proper jurisdiction.

A second observation to be made is, that the immediate objects of the Fœderal Constitution is to secure the union of the Thirteen Primitive States, which we know to be practicable; and to add to them such other States, as may arise in their own bosoms or in their neighbourhoods, which we cannot doubt to be equally practicable. The arrangements that may be necessary for those angles and fractions of our territory, which lie on our north western frontier, must be left to those whom further discoveries and experience will render more equal to the task.

Let it be remarked in the third place, that the intercourse throughout the union will be daily facilitated by new improvements. Roads will every where be shortened, and kept in better order; accommodations for

travellers will be multiplied and meliorated; and interior navigation on our eastern side will be opened throughout, or nearly throughout the whole extent of the Thirteen States. The communication between the western and Atlantic districts, and between different parts of each, will be rendered more and more easy by those numerous canals with which the beneficence of nature has intersected our country, and which art finds it so little difficult to connect and complete.

A fourth and still more important consideration is, that as almost every State will on one side or other, be a frontier, and will thus find in a regard to its safety, an inducement to make some sacrifices for the sake of the general protection; so the States which lie at the greatest distance from the heart of the union, and which of course may partake least of the ordinary circulation of its benefits, will be at the same time immediately contiguous to foreign nations, and will consequently stand on particular occasions, in greatest need of its strength and resources. It may be inconvenient for Georgia or the States forming our western or north eastern borders to send their representatives to the seat of government, but they would find it more so to struggle alone against an invading enemy, or even to support alone the whole expence of those precautions, which may be dictated by the neighbourhood of continual danger. If they should derive less benefit therefore from the union in some respects, than the less distant States, they will derive greater benefit from it in other respects, and thus the proper equilibrium will be maintained throughout.

I submit to you my fellow citizens, these considerations, in full confidence that the good sense which has so often marked your decisions, will allow them their due weight and effect; and that you will never suffer difficulties, however formidable in appearance or however fashionable the error on which they may be founded, to drive you into the gloomy and perilous scene into which the advocates for disunion would conduct you. Hearken not to the unnatural voice which tells you that the people of America, knit together as they are by so many chords of affection, can no longer live together as members of the same family; can no longer continue the mutual guardians of their mutual happiness; can no longer be fellow citizens of one great respectable and flourishing empire. Hearken not to the voice which petulantly tells you that the form of government recommended for your adoption is a novelty in the political world; that it has never yet had a place in the theories of the wildest projectors; that it rashly attempts what it is impossible to accomplish. No my countrymen, shut your ears against this unhallowed language. Shut your hearts against the poison which it conveys; the kindred blood which flows in the veins of American citizens, the mingled blood which they

have shed in defence of their sacred rights, consecrate their union, and excite horror at the idea of their becoming aliens, rivals, enemies. And if novelties are to be shunned, believe me the most alarming of all novelties, the most wild of all projects, the most rash of all attempts, is that of rending us in pieces, in order to preserve our liberties and promote our happiness. But why is the experiment of an extended republic to be rejected merely because it may comprise what is new? Is it not the glory of the people of America, that whilst they have paid a decent regard to the opinions of former times and other nations, they have not suffered a blind veneration for antiquity, for custom, or for names, to overrule the suggestions of their own good sense, the knowledge of their own situation, and the lessons of their own experience? To this manly spirit, posterity will be indebted for the possession, and the world for the example of the numerous innovations displayed on the American theatre, in favor of private rights and public happiness. Had no important step been taken by the leaders of the revolution for which a precedent could not be discovered, no government established of which an exact model did not present itself, the people of the United States might, at this moment, have been numbered among the melancholy victims of misguided councils, must at best have been labouring under the weight of some of those forms which have crushed the liberties of the rest of mankind. Happily for America, happily we trust for the whole human race, they pursued a new and more noble course. They accomplished a revolution which has no parallel in the annals of human society: They reared the fabrics of governments which have no model on the face of the globe. They formed the design of a great confederacy, which it is incumbent on their successors to improve and perpetuate. If their works betray imperfections, we wonder at the fewness of them. If they erred most in the structure of the union; this was the work most difficult to be executed; this is the work which has been new modelled by the act of your Convention, and it is that act on which you are now to deliberate and to decide.

1. See *The Federalist* 9 and 10 (CC:277, 285).
2. See *The Federalist* 10 (CC:285).

311. Centinel IV Philadelphia Independent Gazetteer, 30 November¹

TO the PEOPLE OF PENNSYLVANIA.

Friends, Countrymen and fellow Citizens, That the present confederation is inadequate to the objects of the union, seems to be universally allowed. The only question is, what additional powers are wanting to give due energy to the federal government? We should, however, be

careful in forming our opinion on this subject, not to impute the temporary and extraordinary difficulties that has hitherto impeded the execution of the confederation, to defects in the system itself. Taxation is in every government, a very delicate and difficult subject; hence it has been the policy of all wise statesmen, as far as circumstances permitted, to lead the people by small beginnings and almost imperceptible degrees, into the habits of taxation; where the contrary conduct has been pursued, it has ever failed of full success, not unfrequently proving the ruin of the projectors. The imposing of a burdensome tax at once on a people, without the usual gradations, is the severest test that any government can be put to, despotism itself has often proved unequal to the attempt. Under this conviction, let us take a review of our situation before and since the revolution. From the first settlement of the country^(a) until the commencement of the late war, the taxes were so light and trivial as to be scarcely felt by the people; when we engaged in the expensive contest with Great Britain, the Congress sensible of the difficulty of levying the monies necessary to its support, by *direct* taxation, had recourse to an anticipation of the public resources, by emitting bills of credit, and thus postponed the necessity of taxation for several years; this means was pursued to a most ruinous length; but about the year 80 or 81, it was wholly exhausted, the bills of credit had suffered such a depreciation from the excessive quantities in circulations, that they ceased to be useful as a medium. The country at this period, was very much impoverished and exhausted; commerce had been suspended for near six years; the husbandman, for want of a market, limited his crops to his own subsistence; the frequent calls of the militia and long continuance in actual service, the devastations of the enemy, the subsistence of our own armies, the evils of the depreciation of the paper money, which fell chiefly upon the patriotic and virtuous part of the community, had all concurred to produce great distress throughout America. In this situation of affairs, we still had the same powerful enemy to contend with, who had even more numerous and better appointed armies in the field than at any former time. Our allies were applied to in this exigence, but the pecuniary assistance that we could procure from them, was soon exhausted; the only resource now remaining, was to obtain by direct taxation, the monies necessary for our defence; the history of mankind does not furnish a similar instance of an attempt to levy such enormous taxes at once, of a people so wholly unprepared and uninured to them—the lamp of sacred liberty^(b) must indeed have burned with unsullied lustre, every sordid principle of the mind must have been then extinct, when the people not only submitted to the grievous impositions, but cheerfully exerted themselves to comply with the calls of their

country; their abilities however, were not equal to furnish the necessary sums—indeed the requisition of the year 1782, amounted to the whole income of their farms and other property, including the means of their subsistence; perhaps the strained exertions of *two* years, would not have sufficed to the discharge of this requisition; how then can we impute the difficulties of the people to a due compliance with the requisitions of Congress to a defect in the confederation, for any government, however energetic, in similar circumstances, would have experienced the same fate. If we review the proceedings of the states, we shall find that they gave every sanction and authority to the requisitions of Congress, that their laws could confer, that they attempted to collect the sums called for in the same manner as is proposed to be done in future by the general government, instead of the state legislatures.

It is a maxim that a government, ought to be cautious not to govern over much, for when the cord of power is drawn too tight, it generally proves its destruction, the impracticability of complying with the requisitions of Congress has lessened the sense of obligation and duty in the people, and thus weakened the ties of the union; the opinion of power in a free government is much more efficacious than the exercise of it; it requires the maturity of time and repeated practice to give due energy and certainty to the operations of government, especially to such as affect the purses of the people.

The thirteen Swiss Cantons confederated by more general and weaker ties than these United States are by the present articles of confederation, have not experienced the necessity of strengthening their union by vesting their general diet with further or greater powers; this national body has only the management of their foreign concerns and in case of a war can only call by requisition on the several Cantons for the necessary supplies, who are sovereign and independent in every internal and local exercise of government—and yet this rope of sand, as our confederation has been termed, which is so similar to that, has held together for ages without any apparent charm.^(c)

I am persuaded that a due consideration, will evince, that the present inefficacy of the requisitions of Congress, is not owing to a defect in the confederation, but the peculiar circumstances of the times.

The wheels of the general government having been thus clogged and the arrearages of taxes still accumulating, it may be asked what prospect is their of the government resuming its proper tone, unless more compulsory powers are granted? To this it may be answered, that the produce of imposts on commerce which all agree to vest in Congress, together with the immense tracts of land at their disposal, will rapidly lessen and eventually discharge the present incumbrances; when this

takes place, the mode by requis[ti]on will be found perfectly adequate to the extraordinary exigencies of the union. Congress have lately sold land to the amount of eight millions of dollars, which is a considerable portion of the whole debt.

It is to be lamented that the interested and designing have availed themselves so successfully of the present crisis, and under the specious pretence of having discovered a panacea for all the ills of the people, they are about establishing a system of government, that will prove more destructive to them, than the wooden horse filled with soldiers did in ancient times to the city of Troy; this horse was introduced by their hostile enemy the Grecians, by a prostitution of the sacred rights^(d) of their religion; in like manner, my fellow citizens are aspiring despots among yourselves prostituting the name of a Washington to cloak their designs upon your liberties.

I would ask how is the proposed government to shower down those treasures upon every class of citizens as is so industriously inculcated and so fondly believed? Is it by the addition of numerous and expensive establishments? Is it by doubling our judiciaries, instituting federal courts in every county of every state? Is it by a superb presidential court? Is it by a large standing army? In short is it by putting it in the power of the future government to levy money at pleasure, and placing this government so independent of the people as to enable the administration to gratify every corrupt passion of the mind, to riot on your spoils, without check or controul?

A transfer to Congress of the power of imposing imposts on commerce and the unlimited regulation of trade, I believe is all that is wanting to render America as prosperous as it is in the power of any form of government to render her; this properly understood would meet the views of all the honest and well meaning.

What gave birth to the late Continental Convention? Was it not the situation of our commerce, which lay at the mercy of every foreign power, who from motives of interest or enmity could restrict and controul it, without risquing a retaliation on the part of America, as Congress was impotent on this subject? Such indeed was the case with respect to Britain, whose hostile regulations gave such a stab to our navigation as to threaten its annihilation, it became the interest of even the American merchant to give a preference to foreign bottoms; hence the distress of our seamen, shiprights, and every mechanic art dependent on navigation.

By these regulations too we were limited in markets for our produce, our vessels were excluded from their West-India Islands, many of our staple commodities were denied entrance in Britain; hence the hus-

bandmen were distressed by the demand for their crops being lessened and their prices reduced. This is the source to which may be traced every evil we experience, that can be relieved by a more energetic government. Recollect the language of complaint for years past, impare^(c) the recommendations of Congress founded on such complaints, pointing out the remedy, examine the reasons assigned by the different states for appointing delegates to the late Convention, view the powers vested in that body; they all harmonize in one sentiment, that the due regulation of trade and navigation was the anxious wish of every class of citizens, was the great object of calling the Convention.

This object being provided for, by the proposed Constitution, the people overlook and are not sensible of the needless sacrifice they are making for it.—Of what avail will be a prosperous state of commerce, when the produce of it will be at the absolute disposal of an arbitrary and unchecked government, who may levy at pleasure the most oppressive taxes; who may destroy every principle of freedom; who may even destroy the privilege of complaining.⁽¹⁾

If you are in doubt about the nature and principles of the proposed government, view the conduct of its authors and patrons, that affords the best explanation, the most striking comment.

The evil genius of darkness presided at its birth, it came forth under the veil of mystery, its true features being carefully concealed, and every deceptive art has been and is practising to have this spurious brat received as the genuine offspring of heaven-born liberty. So fearful are its patrons that you should discern the imposition, that they have hurried on its adoption, with the greatest precipitation; they have endeavored also to preclude all investigation, they have endeavored to intimidate all opposition; by such means as these, have they surreptitiously procured a Convention in this state, favorable to their views;² and here again investigation and discussion are abridged, the final question is moved before the subject has been under consideration;³ an appeal to the people is precluded even in the last resort, lest their eyes should be opened; the Convention have denied the minority the privilege of entering the reasons of their dissent on its journals⁴—Thus despotism is already triumphant, and the genius of liberty is on the eve of her exit, is about bidding an eternal adieu to this once happy people.

After so recent a triumph over British despots, after such torrents of blood and treasure have been spent, after involving ourselves in the distresses of an arduous war, and incurring such a debt, for the express purpose of asserting the rights of humanity, it is truly astonishing that a set of men among ourselves, should have the effrontery to attempt the

destruction of our liberties. But in this enlightened age to hope to dupe the people by the arts they are practising, is still more extraordinary.

How do the advocates of the proposed government, combat the objections urged against it? Not even by an attempt to disprove them, for that would the more fully confirm their truth, but by a species of reasoning that is very congenial to that contempt of the understandings of the people, that they so eminently possess, and which policy cannot even prevent frequent ebullitions of; they seem to think that the oratory and facination of great names and mere sound will suffice to ensure success; that the people may be diverted from a consideration of the merits of the plan, by bold assertions and mere declamation. Some of their writers for instance, paint the distresses of every class of citizens with all the glowing language of eloquence, as if this was a demonstration of the excellence, or even^(g) the safety of the new plan, which, notwithstanding the reality of this distress, may be a system of tyranny and oppression; other writers tell you of the great men who composed the late convention, and give you a pompous display of their virtues, instead of a justification of the plan of government; and others again urge the tyrant's plea, they endeavor to make it a case of necessity, now is the critical moment; they represent the adoption of this government as our only alternative, as the last opportunity we shall have of peaceably establishing a government; they assert it to be the best system that can be formed, and that if we reject it, we will have a worse one or none at all, nay, that if we presume to propose alterations, we shall get into a labyrinth of difficulties from which we cannot be extricated, as no two states will agree in amendments, that therefore it would involve us in irrecconcilable discord. But they all seduously avoid the fair field of argument, a rational investigation into the origination^(h) of the proposed government. I hope the good sense of the people will detect the fallacy of such conduct, will discover the base juggle and with becoming resolution resent the imposition.

That the powers of Congress ought to be strengthened, all allow, but is this a conclusive proof of the necessity to adopt the proposed plan; is it a proof that because the late convention, in the first essay upon so arduous and difficult a subject, harmonised in their ideas, that a future convention will not, or that after a full investigation and mature consideration of the objections, they will not plan a better government and one more agreeable to the sentiments of America, or is it any proof that they can never again agree in any plan? The late convention must indeed have been inspired, as some of its advocates have asserted, to admit the truth of these positions, or even to admit the possibility of the proposed government, being such a one as America ought to adopt; for this body

went upon original ground, foreign from their intentions or powers, they must therefore have been wholly uninformed of the sentiments of their constituents in respect to this form of government, as it was not in their contemplation when the convention was appointed to erect a new government, but to strengthen the old one. Indeed they seem to have been determined to monopolize the exclusive merit of the discovery, or rather as if darkness was essential to its success they precluded all communication with the people, by closing their doors; thus the well disposed members unassisted by public information and opinion, were induced by those arts that are now practising on the people, to give their sanction to this system of despotism.

Is there any reason to presume that a new Convention will not agree upon a better plan of government? Quite the contrary, for perhaps there never was such a coincidence⁽¹⁾ on any occasion as on the present, the opponents to the proposed plan, at the same time in every part of the continent, harmonised in the same objections; such an uniformity of opposition is without example and affords the strongest demonstration of its solidity. Their objections too are not local, are not confined to the interests of any one particular state to the prejudice of the rest, but with a philanthropy and liberality that reflects lustre on humanity, that dignifies the character of America, they embrace the interests and happiness of the whole union, they do not even condescend to minute blemishes, but shew that the main pillars of the fabric are bad, that the essential principles of liberty and safety are not to be found in it, that despotism will be the necessary and inevitable consequence of its establishment.

[ERRATA for CENTINEL IV.]⁵

- (a) Insert "this country" instead of "the country."
- (b) The errata stated: "An amendment proposed in case of republishing, *viz.* to say 'the lamp of *patriotism*' instead of 'liberty.' "
- (c) Insert "chasm" instead of "charm."
- (d) Insert "rites" instead of "rights."
- (e) Insert "compare" instead of "impare."
- (f) Insert "who may deprive you even of the privilege of complaining" instead of "destroy, &c."
- (g) Insert the word "of" after the word "even."
- (h) Insert "organization" instead of "origination."
- (i) Insert after "coincidence" the words "of sentiments."

1. "Centinel" IV was reprinted in the *New York Journal* on 7 December, and in a New York pamphlet anthology distributed in April 1788 (Evans 21344). The *Journal's* reprint

incorporated all of the errata except (b) and (f). For a discussion of the authorship, circulation, and impact of "Centinel," see CC:133.

2. For the precipitate action in calling a state convention, see CC:125.

3. On Saturday, 24 November—four days after the Pennsylvania Convention convened—Thomas McKean moved "that this Convention do assent to and ratify the constitution." McKean declared that this motion was not for the purpose of securing an immediate vote, "but merely to bring the object of our meeting fully and fairly into discussion." Antifederalist John Smilie thought that McKean's motion called for an immediate vote, but Antifederalist Robert Whitehill noted that Smilie had misinterpreted the meaning of the motion. On Monday, 26 November, McKean moved and the Convention agreed to consider the Constitution article by article (RCS:Pa., 333, 334, 336–37, 364–68).

4. On 27 November Robert Whitehill moved that any member of the Convention "shall have a right to enter the reasons of his vote on the minutes on the general question, viz. Whether this Convention will assent to and ratify the constitution submitted to their consideration?" The motion was defeated 44 to 22 (RCS:Pa., 369–70). Whitehill's motion was not unusual—the Pennsylvania legislature permitted members to enter their reasons for dissent on the journals. For the "Dissent of the Minority of the Pennsylvania Convention," see CC:353.

5. This errata was published in the Philadelphia *Independent Gazetteer* on 1 December.

312. Publius: The Federalist 15 New York Independent Journal, 1 December

This essay was written by Alexander Hamilton. It was reprinted in the *New York Packet* on 4 December; the *New York Daily Advertiser* on 4 and 5 December; the *Boston American Herald* on 24 December; the supplement to the *Poughkeepsie Country Journal* on 16 January 1788; and the *Pennsylvania Gazette* on 20 February.

The Federalist 15 was severely criticized by Hugh Hughes in an unpublished and undated essay addressed "To Publius or the Pseudo-Federalist." Hughes's essay, which asked "Publius" several questions, was replete with invectives against "Publius" and the Constitutional Convention. It also insinuated that Alexander Hamilton was "Publius" (Hughes Papers, DLC). Hughes probably submitted the essay for publication under the pseudonym "Interrogator," but it was never published. Charles Tillinghast wrote Hughes that "I put the *Interrogator* into the hands of *Cato*, who gave it to *Brutus* to read, and between them, I have not been able to get it published" (27–28 January 1788, *ibid.*).

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

The FØEDERALIST. No. XV.

To the People of the State of New-York.

In the course of the preceding papers, I have endeavoured, my Fellow Citizens, to place before you in a clear and convincing light, the importance of Union to your political safety and happiness. I have unfolded to you a complication of dangers to which you would be exposed should you permit that sacred knot which binds the people of America together to be severed or dissolved by ambition or by avarice, by jealousy or by misrepresentation. In the sequel of the inquiry,

through which I propose to accompany you, the truths intended to be inculcated will receive further confirmation from facts and arguments hitherto unnoticed. If the road, over which you will still have to pass, should in some places appear to you tedious or irksome, you will recollect, that you are in quest of information on a subject the most momentous which can engage the attention of a free people: that the field through which you have to travel is in itself spacious, and that the difficulties of the journey have been unnecessarily increased by the magic with which sophistry has beset the way. It will be my aim to remove the obstacles to your progress in as compendious a manner, as it can be done, without sacrificing utility to dispatch.

In pursuance of the plan, which I have laid down, for the discussion of the subject, the point next in order to be examined is the "insufficiency of the present confederation to the preservation of the Union." It may perhaps be asked, what need is there of reasoning or proof to illustrate a position, which is not either controverted or doubted; to which the understandings and feelings of all classes of men assent; and which in substance is admitted by the opponents as well as by the friends of the New Constitution?—It must in truth be acknowledged that however these may differ in other respects, they in general appear to harmonise in this sentiment at least, that there are material imperfections in our national system, and that something is necessary to be done to rescue us from impending anarchy. The facts that support this opinion are no longer objects of speculation. They have forced themselves upon the sensibility of the people at large, and have at length extorted from those, whose mistaken policy has had the principal share in precip[it]ating the extremity, at which we are arrived, a reluctant confession of the reality of those defects in the scheme of our Fœderal Government, which have been long pointed out and regreted by the intelligent friends of the Union.

We may indeed with propriety be said to have reached almost the last stage of national humiliation. There is scarcely any thing that can wound the pride, or degrade the character of an independent nation, which we do not experience. Are there engagements to the performance of which we are held by every tie respectable among men. These are the subjects of constant and unblushing violation. Do we owe debts to foreigners and to our own citizens contracted in a time of imminent peril, for the preservation of our political existence? These remain without any proper or satisfactory provision for their discharge. Have we valuable territories and important posts in the possession of a foreign power, which by express stipulations ought long since to have been surrendered? These are still retained, to the prejudice of our interests not less

than of our rights. Are we in a condition to resent, or to repel the aggression? We have neither troops nor treasury nor government.^(a) Are we even in a condition to remonstrate with dignity? The just imputations on our own faith, in respect to the same treaty, ought first to be removed. Are we entitled by nature and compact to a free participation in the navigation of the Mississippi? Spain excludes us from it. Is public credit an indispensable resource in time of public danger? We seem to have abandoned its cause as desperate and irretrievable. Is commerce of importance to national wealth? Ours is at the lowest point of declension. Is respectability in the eyes of foreign powers a safeguard against foreign encroachments? The imbecility of our Government even forbids them to treat with us? Our ambassadors abroad are the mere pageants of mimic sovereignty. Is a violent and unnatural decrease in the value of land a symptom of national distress? The price of improved land in most parts of the country is much lower than can be accounted for by the quantity of waste land at market, and can only be fully explained by that want of private and public confidence, which are so alarmingly prevalent among all ranks and which have a direct tendency to depreciate property of every kind. Is private credit the friend and patron of industry? That most useful kind which relates to borrowing and lending is reduced within the narrowest limits, and this still more from an opinion of insecurity than from the scarcity of money. To shorten an enumeration of particulars which can afford neither pleasure nor instruction it may in general be demanded, what indication is there of national disorder, poverty and insignificance that could befall a community so peculiarly blessed with natural advantages as we are, which does not form a part of the dark catalogue of our public misfortunes?

This is the melancholy situation, to which we have been brought by those very maxims and councils, which would now deter us from adopting the proposed constitution; and which not content with having conducted us to the brink of a precipice, seem resolved to plunge us into the abyss, that awaits us below. Here, my Countrymen, impelled by every motive that ought to influence an enlightened people, let us make a firm stand for our safety, our tranquillity, our dignity, our reputation. Let us at last break the fatal charm which has too long seduced us from the paths of felicity and prosperity.

It is true, as has been before observed, that facts too stubborn to be resisted have produced a species of general assent to the abstract proposition that there exist material defects in our national system; but the usefulness of the concession, on the part of the old adversaries of fœderal measures, is destroyed by a stren[u]ous opposition to a remedy, upon the only principles, that can give it a chance of success. While they admit

that the Government of the United States is destituted of energy; they contend against conferring upon it those powers which are requisite to supply that energy: They seem still to aim at things repugnant and irreconcilable—at an augmentation of Fœderal authority without a diminution of State authority—at sovereignty in the Union and complete independence in the members. They still in fine seem to cherish with blind devotion the political monster of an *imperium in imperio*. This renders a full display of the principal defects of the confederation necessary, in order to shew, that the evils we experience do not proceed from minute or partial imperfections, but from fundamental errors in the structure of the building which cannot be amended otherwise than by an alteration in the first principles and main pillars of the fabric.

The great and radical vice in the construction of the existing Confederation is in the principle of LEGISLATION for STATES or GOVERNMENTS, in their CORPORATE or COLLECTIVE CAPACITIES and as contradistinguished from the INDIVIDUALS of which they consist. Though this principle does not run through all the powers delegated to the Union; yet it pervades and governs those, on which the efficacy of the rest depends. Except as to the rule of apportionment, the United States have an indefinite discretion to make requisitions for men and money; but they have no authority to raise either by regulations extending to the individual citizens of America. The consequence of this is, that though in theory their resolutions concerning those objects are laws, constitutionally binding on the members of the Union, yet in practice they are mere recommendations, which the States observe or disregard at their option.

It is a singular instance of the capriciousness of the human mind, that after all the admonitions we have had from experience on this head, there should still be found men, who object to the New Constitution for deviating from a principle which has been found the bane of the old; and which is in itself evidently incompatible with the idea of GOVERNMENT; a principle in short which if it is to be executed at all must substitute the violent and sanguinary agency of the sword to the mild influence of the Magistracy.

There is nothing absurd or impracticable in the idea of a league or alliance between independent nations, for certain defined purposes precisely stated in a treaty; regulating all the details of time, place, circumstance and quantity; leaving nothing to future discretion; and depending for its execution on the good faith of the parties. Compacts of this kind exist among all civilized nations subject to the usual vicissitudes of peace and war, of observance and non observance, as the interests or passions of the contracting powers dictate. In the early part of the present century, there was an epidemical rage in Europe for this

species of compacts; from which the politicians of the times fondly hoped for benefits which were never realised. With a view to establishing the equilibrium of power and the peace of that part of the world, all the resources of negotiation were exhausted, and triple and quadruple alliances were formed; but they were (scarcely formed before they were broken, giving an instructive but afflicting lesson to mankind how little dependence is to be placed on treaties which have no other sanction than the obligations of good faith; and which oppose general considerations of peace and justice to the impulse of any immediate interest and passion.)¹

If the particular States in this country are disposed to stand in a similar relation to each other, and to drop the project of a general DISCRETIONARY SUPERINTENDENCE, the scheme would indeed be pernicious, and would entail upon us all the mischiefs that have been enumerated under the first head; but it would have the merit of being at least consistent and practicable. Abandoning all views towards a confederate Government, this would bring us to a simple alliance offensive and defensive; and would place us in a situation to be alternately friends and enemies of each other as our mutual jealousies and rivalships nourished by the intrigues of foreign nations should prescribe to us.

But if we are unwilling to be placed in this perilous situation; if we will still adhere to the design of a national government, or which is the same thing of a superintending power under the direction of a common Council, we must resolve to incorporate into our plan those ingredients which may be considered as forming the characteristic difference between a league and a government; we must extend the authority of the union to the persons of the citizens,—the only proper objects of government.

Government implies the power of making laws. It is essential to the idea of a law, that it be attended with a sanction; or, in other words, a penalty or punishment for disobedience. If there be no penalty annexed to disobedience, the resolutions or commands which pretend to be laws will in fact amount to nothing more than advice or recommendation. This penalty, whatever it may be, can only be inflicted in two ways; by the agency of the Courts and Ministers of Justice, or by military force; by the COERTION of the magistracy, or by the COERTION of arms. The first kind can evidently apply only to men—the last kind must of necessity be employed against bodies politic, or communities or States. It is evident, that there is no process of a court by which their observance of the laws can in the last resort be enforced. Sentences may be denounced against them for violations of their duty; but these sentences can only be carried into execution by the sword. In an association where the general

authority is confined to the collective bodies of the communities that compose it, every breach of the laws must involve a state of war, and military execution must become the only instrument of civil obedience. Such a state of things can certainly not deserve the name of government, nor would any prudent man choose to commit his happiness to it.

There was a time when we were told that breaches, by the States, of the regulations of the foederal authority were not to be expected—that a sense of common interest would preside over the conduct of the respective members, and would beget a full compliance with all the constitutional requisitions of the Union. This language at the present day would appear as wild as a great part of what we now hear from the same quarter will be thought, when we shall have received further lessons from that best oracle of wisdom, experience. It at all times betrayed an ignorance of the true springs by which human conduct is actuated, and belied the original inducements to the establishment of civil power. Why has government been instituted at all? Because the passions of men will not conform to the dictates of reason and justice, without constraint? Has it been found that bodies of men act with more rectitude or greater disinterestedness than individuals? The contrary of this has been inferred by all accurate observers of the conduct of mankind; and the inference is founded upon obvious reasons. Regard to reputation has a less active influence, when the infamy of a bad action is to be divided among a number, than when it is to fall singly upon one. A spirit of faction which is apt to mingle its poison in the deliberations of all bodies of men, will often hurry the persons of whom they are composed into improprieties and excesses, for which they would blush in a private capacity.

In addition to all this, there is in the nature of sovereign power an impatience of controul, that disposes those who are invested with the exercise of it, to look with an evil eye upon all external attempts to restrain or direct its operations. From this spirit it happens, that in every political association which is formed upon the principle of uniting in a common interest a number of lesser sovereignties, there will be found a kind of excentric tendency in the subordinate or inferior orbs, by the operation of which there will be a perpetual effort in each to fly off from the common center. This tendency is not difficult to be accounted for. It has its origin in the love of power. Power controuled or abused is almost always the rival and enemy of that power by which it is controuled or abridged. This simple proposition will teach us how little reason there is to expect, that the persons, entrusted with the administration of the affairs of the particular members of a confederacy, will at all times be ready, with perfect good humour, and an unbiassed regard to the pub-

lic weal, to execute the resolutions or decrees of the general authority. The reverse of this results from the constitution of human nature.

If therefore the measures of the confederacy cannot be executed, without the intervention of the particular administrations, there will be little prospect of their being executed at all. The rulers of the respective members, whether they have a constitutional right to do it or not, will undertake to judge of the propriety of the measures themselves. They will consider the conformity of the thing proposed or required to their immediate interests or aims, the momentary conveniences or inconveniences that would attend its adoption. All this will be done; and in a spirit of interested and suspicious scrutiny, without that knowledge of national circumstances and reasons of state, which is essential to a right judgment, and with that strong predilection in favour of local objects, which can hardly fail to mislead the decision. The same process must be repeated in every member of which the body is constituted; and the execution of the plans, framed by the councils of the whole, will always fluctuate on the discretion of the ill-informed and prejudiced opinion of every part. Those who have been conversant in the proceedings of popular assemblies; who have seen how difficult it often is, when there is no exterior pressure of circumstances, to bring them to harmonious resolutions on important points, will readily conceive how impossible it must be to induce a number of such assemblies, deliberating at a distance from each other, at different times, and under different impressions, long to co-operate in the same views and pursuits.

In our case, the concurrence of thirteen distinct sovereign wills is requisite under the confederation to the complete execution of every important measure, that proceeds from the Union. It has happened as was to have been foreseen. The measures of the Union have not been executed; and the delinquencies of the States have step by step matured themselves to an extreme; which has at length arrested all the wheels of the national government, and brought them to an awful stand. Congress at this time scarcely possess the means of keeping up the forms of administration; 'till the States can have time to agree upon a more substantial substitute for the present shadow of a fœderal government. Things did not come to this desperate extremity at once. The causes which have been specified produced at first only unequal and disproportionate degrees of compliance with the requisitions of the Union. The greater deficiencies of some States furnished the pretext of example and the temptation of interest to the complying, or to the least delinquent States. Why should we do more in proportion than those who are embarked with us in the same political voyage? Why should we consent to bear more than our proper share of the common burthen? These were

suggestions which human selfishness could not withstand, and which even speculative men, who looked forward to remote consequences, could not, without hesitation, combat. Each State yielding to the persuasive voice of immediate interest and convenience has successively withdrawn its support, 'till the frail and tottering edifice seems ready to fall upon our heads and to crush us beneath its ruins.

(a) *I mean for the Union.*

1. The text within angle brackets was quoted by "Many," *Virginia Independent Chronicle*, 18 June 1788, to demonstrate the danger of the constitutional provision making treaties the supreme law of the land. In the manuscript draft, "Many" argued that treaties should be ratified by nine of the thirteen states, "like all other important acts made under the Confederation" ("Many" to Augustine Davis, 13 May 1788, Draper Manuscripts, King's Mountain Papers, WHi). "Many" was Arthur Campbell (1743-1811) of Washington County, Va., who had recently served in the Virginia House of Delegates.

313. Benjamin Lincoln to François de Fleury Boston, 2 December (excerpt)¹

. . . The decided part you early took in the cause of the United States of America, and the brave, faithful and spirited conduct evidenced in the discharge of the important [c]ommand, committed to your execution justly entitles you to our affection and esteem whilst it leaves in my mind no room to doubt but that you feel your self interested in all the important concerns of this country, hence I am induced to give you a short state of our affairs as they relate to our union. You doubtless recollect that the confederation delegated no powers to Congress but those which were recommendatory in their nature, with those, whilst we were surrounded by a powerful enemy, we got along but as soon as the enemy were with drawn and the common danger was over the States with drew their attention to the recommendations of Congress in the same proportion, from time to time, as they found their powers were insufficient to enforce them; at length Congress was little more than a name. This made it necessary to call a convention of delagates from all the States to revise and amend the constitution, all met excepting, Rhode Island, they have reported a system, I think a good one, it is submitted to the States for their acceptance or rejection, I hope it will be accepted, whether it will or not is quite uncertain, our good General Washington was president of the convention-If it should not pass what the consequences will be cannot be foreseen.-Some government we must soon have or we shall be held in higher contempt than we now are.-Let me beg the favor of a line by the return of the Ship.-

1. FC, Lincoln Papers, MHi. Lincoln (1733-1810), a Hingham, Mass., farmer, was a major general in the Continental Army during the Revolution and Secretary at War from 1781 to 1783. In January and February 1787 Lincoln commanded the militia that suppressed Shays's Rebellion. He was a delegate to the state Convention and voted to ratify the Constitution in February 1788. From 1789 to 1809, he served as collector of the Port of Boston. François Louis Teisseidre, Marquis de Fleury (b. 1749), a French soldier, joined the Continental Army in 1777 and rose to the rank of lieutenant colonel. In 1779 Congress cited him for gallantry. After the war he served with the French army in the East Indies and in 1787 he was stationed at Ile de France (Mauritius).

314. James Madison to Edmund Randolph New York, 2 December (excerpt)¹

. . . No recent indications of the views of the States as to the Constitution have come to my knowledge. The elections in Connecticut are over and as far as the returns are known, a large majority are friendly to it. Doctr. Johnson² says, it will be pretty certainly adopted; but there will be opposition. The power of taxing any thing but imports appears to be the most popular topic among the adversaries. The Convention of Pennsylvania is sitting. The result there will not reach you first through my hands. The divisions on preparatory questions, as they are published in the newspapers, shew that the party in favor of the Constitution have 44 or 45. vs. 22 or 24. or thereabouts.³

The inclosed paper contains two numbers of the Federalist. This paper was begun about three weeks ago, and proposes to go through that subject. I have not been able to collect all the numbers, since my return from Philada. or I would have sent them to you. I have been the less anxious as I understand the printer means to make a pamphlet of them, when I can give them to you in a more convenient form. You will probably discover marks of different pens. *I am not at liberty to give you any other key than that I am in myself for a few numbers & that one besides myself was a member of the Convention.*⁴

1. RC, Madison Papers, DLC. Printed: Rutland, *Madison*, X, 289-90. Madison marked this letter "*private*." He encoded the italicized words, employing a number code that Randolph had sent to him in 1782. Years later Madison wrote the words above the numbers.

2. William Samuel Johnson, President of Columbia College, had been elected to the Connecticut Convention on 12 November.

3. On 26 November the Pennsylvania Convention voted 44 to 24 against resolving "itself into a committee of the whole, for the purpose of investigating and considering the aforesaid constitution by articles and sections, and to make report thereon." The yeas and nays of this vote, carried by the Federalists, were published in the *Pennsylvania Packet* on 27 November (RCS:Pa., 364-65, 367) and reprinted in the *New York Daily Advertiser* and *New York Journal* on 1 December.

4. For the publication of *The Federalist* essays in book form and for their authorship, see CC:201.

315. Samuel Adams to Richard Henry Lee
Boston, 3 December¹

I am to acknowledge your several Favours of the 5th and 27 of October,² the one by the Post and the other by our worthy Friend Mr Gerry. The Session of our General Court which lasted six Weeks, and my Station there³ requiring my punctual & constant Attendance, prevented my considering the *new* Constitution as it is already called, so closely as was necessary for me before I should venture an Opinion.

I confess, as I enter the Building I stumble at the Threshold. I meet with a National Government, instead of a fœderal Union of Sovereign States. I am not able to conceive why the Wisdom of the Convention led them to give the Preference to the former before the latter. If the several States in the Union are to become one entire Nation, under one Legislature, the Powers of which shall extend to every Subject of Legislation, and its Laws be supreme & controul the whole, the Idea of Sovereignty in these States must be lost. Indeed I think, upon such a Supposition, those Sovereignties ought to be eradicated from the Mind; for they would be Imperia in Imperio justly deemd a Solecism in Politicks, & they would be highly dangerous, and destructive of the Peace Union and Safety of the Nation. And can this National Legislature be competent to make Laws for the *free* internal Government of one People, living in Climates so remote and whose "Habits & particular Interests" are and probably always will be so different. Is it to be expected that General Laws can be adapted to the Feelings of the more Eastern & the more Southern Parts of so extensive a Nation? It appears to me difficult if practicable. Hence then may we not look for Discontent, Mistrust, Disaffection to Government and frequent Insurrections, which will require standing Armies to suppress them in one Place & another where they may happen to arise. Or if Laws could be made, adapted to the local Habits Feelings, Views & Interests of those distant Parts, would they not cause Jealousies of Partiality in Government which would excite Envy and other malignant Passions productive of Wars and fighting. But should we continue distinct sovereig[n] States, confederated for the Purposes of mutual Safety and Happiness, each contributing to the fœderal Head such a Part of its Sovereignty as would render the Government fully adequate to those Purposes and *no more*, the People would govern themselves more easily, the Laws of each State being well adapted to its own Genius & Circumstances, and the Liberties of the United States would be more secure than they can be, as I humbly conceive, under the proposed new Constitution. You are sensible, Sir, that the Seeds of Aristocracy began to spring even before the Conclusion of our Struggle for the natural Rights of Men. Seeds which

like a Canker Worm lie at the Root of free Governments. So great is the Wickedness of some Men, & the stupid Servility of others, that one would be almost inclined to conclude that Communities cannot be free. The few haughty Families, think *They* must govern. The Body of the People tamely consent & submit to be their Slaves. This unravels the Mystery of Millions being enslaved by the few! But I must desist—My weak hand prevents my proceeding further at present. I will send you my poor Opinion of the political Structure at another Time. In the Interim oblige me with your Letters; & present mine & Mrs A's best Regards to your Lady & Family, Colo Francis,⁴ Mr A. L.⁵ if with you, & other Friends.

[P.S.] As I thought it a Piece of Justice I have venturd to say that I had often heard from the best Patriots from Virginia that Mr G Mason was an early active & able Advocate for the Liberties of America,

1. RC, Lee Papers, PPAmP. Adams's draft letter, which contains some variations from the recipient's copy, is in the Samuel Adams Papers, New York Public Library. In his last letter to Adams, Lee had requested that "When you are pleased to write to me, your letter, by being enclosed to our friend Mr. Osgood of the Treasury here, will be forwarded *safely* to me in Virginia, for which place I shall set out from hence on the 4th of next month" (27 October 1787, CC:199). Agreeable to this request, Adams sent his response to Lee as an enclosure in a letter to Samuel Osgood. Since Lee had already left New York, Osgood gave the letter to Arthur Lee who was to forward it to his brother in Virginia (Osgood to Adams, 5 January 1788, CC:417). Richard Henry Lee received Adams's 3 December letter on "the last of January" 1788 (Lee to Adams, 28 April, *Memoir of the Life of Richard Henry Lee*. . . (2 vols., Philadelphia, 1825), II, 86-87).

2. See CC:132, 199.

3. Adams was President of the Massachusetts Senate.

4. Colonel Francis Lightfoot Lee was Richard Henry Lee's brother.

5. Arthur Lee.

316. A Landholder V

Connecticut Courant, 3 December¹

To the Landholders and Farmers.

*Continuation of Remarks on the Hon. ELBRIDGE GERRY'S
Objections to the new Constitution.*²

It is unhappy both for Mr. Gerry and the public, that he was not more explicit in publishing his doubts. Certainly this must have been from inattention, and not thro' any want of ability; as all his honourable friends allow him to be a politician even of metaphysical nicety.

In a question of such magnitude, every candid man will consent to discuss objections, which are stated with perspicuity; but to follow the honourable writer into the field of conjecture, and combat phantoms, uncertain whether or not they are the same which terrified him, is a task too laborious for patience itself. Such must be the writer's situation in

replying to the next objection, "*that some of the powers of the Legislature are ambiguous, and others indefinite and dangerous.*" There are many powers given to the legislature, if any of them are dangerous, the people have a right to know which they are, and how they will operate, that we may guard against the evil. The charge of being ambiguous and indefinite may be brought against every human composition, and necessarily arises from the imperfection of language. Perhaps no two men will express the same sentiment in the same manner, and by the same words; neither do they connect precisely the same ideas with the same words. From hence arises an ambiguity in all languages, with which the most perspicuous and precise writers are in a degree chargeable. Some persons never attain to the happy art of perspicuous expression, and it is equally true that some persons thro' a mental defect of their own, will judge the most correct and certain language of others to be indefinite and ambiguous. As Mr. Gerry is the first and only man who has charged the new Constitution with ambiguousness, is there not room to suspect that his understanding is different from other men's, and whether it be better or worse, the Landholder presumes not to decide.

It is an excellency of this Constitution that it is expressed with brevity, and in the plain common language of mankind.

Had it swelled into the magnitude of a volume, there would have been more room to entrap the unwary, and the people who are to be its judges, would have had neither patience nor opportunity to understand it. Had it been expressed in the scientific language of law, or those terms of art which we often find in political compositions, to the honourable gentleman it might have appeared more definite and less ambiguous; but to the great body of the people altogether obscure, and to accept it they must leap in the dark.

The people to whom in this case the great appeal is made, best understand those compositions which are concise and in their own language. Had the powers given to the legislature, been loaded with provisos, and such qualifications, as a lawyer who is so cunning as even to suspect himself, would probably have intermingled; there would have been much more danger of a deception in the case. It would not be difficult to shew that every power given to the legislature is necessary for national defence and justice, and to protect the rights of the people who create this authority for their own advantage; but to consider each one particularly would exceed the limits of my design.

I shall therefore select two powers given them, which have been more abused to oppress and enslave mankind, than all the others with which this or any legislature on earth is cloathed. The right of taxation or of

collecting money from the people; and of raising and supporting armies.

These are the powers which enable tyrants to scourge their subjects; and they are also the very powers by which good rulers protect the people, against the violence of wicked and overgrown citizens, and invasion by the rest of mankind. Judge candidly what a wretched figure the American empire will exhibit in the eye of other nations, without a power to array and support a military force for its own protection. Half a dozen regiments from Canada or New-Spain, might lay whole provinces under contribution, while we were disputing, who has power to pay and raise an army. This power is also necessary to restrain the violence of seditious citizens. A concurrence of circumstances, frequently enables a few disaffected persons to make great revolutions, unless government is vested with the most extensive powers of self-defence. Had Shays, the malecontent of Massachusetts, been a man of genius, fortune and address, he might have conquered that state, and by the aid of a little sedition in the other states, and an army proud by victory, became the monarch and tyrant of America. Fortunately he was checked, but should jealousy prevent vesting these powers, in the hands of men chosen by yourselves, and who are under every constitutional restraint, accident or design will in all probability raise up some future Shays to be the tyrant of your children.

A people cannot long retain their freedom, whose government is incapable of protecting them.

The power of collecting money from the people, is not to be rejected because it has sometimes been oppressive.

Public credit is as necessary for the prosperity of a nation as private credit is for the support and wealth of a family.

We are this day many millions poorer, than we should have been had a well arranged government taken place at the conclusion of the war. All have shared in this loss, but none in so great proportion as the landholders and farmers.

The public must be served in various departments.

Who will serve them without a meet recompence? Who will go to war and pay the charges of his own warfare? What man will any longer take empty promises of reward from those, who have no constitutional power to reward or means of fulfilling them? Promises have done their utmost, more than they ever did in any other age or country. The delusive bubble has broke, and in breaking it has beggared thousands, and left you an unprotected people; numerous without force, and full of resources but unable to command one of them. For these purposes there must be a general treasury, with a power to replenish it as often as necessity

requires. And where can this power be more safely vested, than in the common legislature, men chosen by yourselves from every part of the union, and who have the confidence of their several states; men who must share in the burdens they impose on others; men who by a seat in Congress are incapable of holding any office under the States, which might prove a temptation to spoil the people for increasing their own income.

We find another objection to be "that the executive is blended with and will have an undue influence over the legislative." On examination you will find this objection unfounded. The supreme executive is vested in a President of the United States, every bill that hath passed the senate and representatives, must be presented to the President, and if he approve it becomes law. If he disapproves, but makes no return within ten days it still becomes law. If he returns the bill with his objections, the senate and representatives consider it a second time, and if two thirds of them adhere to the first resolution it becomes law notwithstanding the presidents dissent. We allow the president hath an influence, tho' strictly speaking he hath not a legislative voice; and think such an influence must be salutary. In the president, all the executive departments meet, and he will be a channel of communication between those who make and those who execute the laws. Many things look fair in theory which in practice are impossible. If lawmakers in every instance, before their final decree, had the opinion of those who are to execute them; it would prevent a thousand absurd ordinances, which are solemnly made, only to be repealed and lessen the dignity of legislation in the eyes of mankind.

The vice-president is not in an executive officer, while the president is in discharge of his duty; and when he is called to preside his legislative voice ceases. In no other instance is there even the shadow of blending or influence between the two departments. We are further told "that the judicial department, or those courts of law, to be instituted by Congress, will be oppressive."

We allow it to be possible, but from whence arises the probability of this event. State judges may be corrupt, and juries may be prejudiced and ignorant, but these instances are not common; and why shall we suppose they will be more frequent under a national appointment and influence, when the eyes of a whole empire are watching for their detection.

Their courts are not to intermeddle with your internal policy, and will have cognizance only of those subjects which are placed under the control of a national legislature. It is as necessary there should be courts of law and executive officers, to carry into effect the laws of the nation; as

that there be courts and officers to execute the laws made by your state assemblies. There are many reasons why their decisions ought not to be left to courts instituted by particular states.

A perfect uniformity must be observed thro' the whole union or jealousy and unrighteousness will take place; and for a uniformity one judiciary must pervade the whole. The inhabitants of one state will not have confidence in judges appointed by the legislature of another state, in which they have no voice. Judges who owe their appointment and support to one state, will be unduly influenced, and not reverence the laws of the union. It will at any time be in the power of the smallest state by interdicting their own judiciary, to defeat the measures, defraud the revenue, and annul the most sacred laws of the whole empire. A legislative power, without a judicial and executive under their own control, is in the nature of things a nullity. Congress under the old confederation had power to ordain and resolve, but having no judicial or executive of their own, their most solemn resolves, were totally disregarded. The little state of Rhode-Island was purposely left by Heaven to its present madness, for a general conviction in the other states, that such a system as is now proposed is our only preservation from ruin. What respect can any one think would be paid to national laws, by judicial and executive officers who are amenable only to the present assembly of Rhode-Island. The rebellion of Shays and the present measures of Rhode-Island ought to convince us that a national legislature, judiciary and executive must be united, or the whole is but a name; and that we must have these or soon be hewers of wood and drawers of water for all other people.

In all these matters and powers given to Congress, their ordinances must be the supreme law of the land or they are nothing. They must have authority to enact any laws for executing their own powers, or those powers will be evaded by the artful and unjust, and the dishonest trader will defraud the public of its revenue.

As we have every reason to think this system was honestly planned, we ought to hope it may be honestly and justly executed. I am sensible that speculation is always liable to error. If there be any capital defects in this constitution, it is most probable that experience alone will discover them. Provision is made for an alteration if on trial it be found necessary.

When your children see the candor and greatness of mind, with which you lay the foundation, they will be inspired with equity to finish and adorn the superstructure.

1. This essay, with slight variations, was also printed on 3 December in the *Hartford American Mercury*. It was reprinted nine times by 8 January 1788: Mass. (3), R.I. (1), Conn. (3), Pa. (1), Md. (1). For the authorship, circulation, and impact of "Landholder," see CC:230.

2. For Gerry's objections to the Constitution, dated 18 October and published in the *Massachusetts Centinel* on 3 November, see CC:227-A. For "Landholder's" previous remarks on Gerry's objections, see CC:295.

317. Publius: The Federalist 16 New York Packet, 4 December

This essay was written by Alexander Hamilton. It was reprinted in the *New York Independent Journal*, 5 December; *New York Daily Advertiser*, 6 December; supplement to the *Poughkeepsie Country Journal*, 16 January 1788; *Pennsylvania Gazette*, 27 February; and *Winchester Virginia Gazette*, 9 April.

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

The FEDERALIST, No. 16.

To the People of the State of New-York.

The tendency of the principle of legislation for States, or communities, in their political capacities, as it has been exemplified by the experiment we have made of it, is equally attested by the events which have befallen all other governments of the confederate kind, of which we have any account, in exact proportion to its prevalence in those systems. The confirmations of this fact will be worthy of a distinct and particular examination.¹ I shall content myself with barely observing here, that of all the confederacies of antiquity, which history has handed down to us, the Lycian and Achæan leagues, as far as their remain vestiges of them, appear to have been most free from the fetters of that mistaken principle, and were accordingly those which have best deserved, and have most liberally received the applauding suffrages of political writers.

This exceptionable principle may as truly as emphatically be stiled the parent of anarchy: It has been seen that delinquencies in the members of the Union are its natural and necessary offspring; and that whenever they happen, the only constitutional remedy is force, and the immediate effect of the use of it, civil war.

It remains to enquire how far so odious an engine of government, in its application to us, would even be capable of answering its end. If there should not be a large army, constantly at the disposal of the national government, it would either not be able to employ force at all, or when this could be done, it would amount to a war between different parts of the confederacy, concerning the infractions of a league; in which the strongest combination would be most likely to prevail, whether it consisted of those who supported, or of those who resisted the general authority. It would rarely happen that the delinquency to be redressed would be confined to a single member, and if there were more than one, who had neglected their duty, similarity of situation would induce them to unite for common defence. Independent of this motive of sympathy,

if a large and influential State should happen to be the aggressing member, it would commonly have weight enough with its neighbours, to win over some of them as associates to its cause. Specious arguments of danger to the common liberty could easily be contrived; plausible excuses for the deficiencies of the party, could, without difficulty be invented, to alarm the apprehensions, inflame the passions, and conciliate the good will even of those States which were not chargeable with any violation, or omission of duty. This would be the more likely to take place, as the delinquencies of the larger members might be expected sometimes to proceed from an ambitious premeditation in their rulers, with a view to getting rid of all external controul upon their designs of personal aggrandizement; the better to effect which, it is presumable they would tamper beforehand with leading individuals in the adjacent States. If associates could not be found at home, recourse would be had to the aid of foreign powers, who would seldom be disinclined to encouraging the dissensions of a confederacy, from the firm Union of which they had so much to fear. When the sword is once drawn, the passions of men observe no bounds of moderation. The suggestions of wounded pride, the instigations of irritated resentment, would be apt to carry the States, against which the arms of the Union were exerted to any extremes necessary to revenge the affront, or to avoid the disgrace of submission. The first war of this kind would probably terminate in a dissolution of the Union.

This may be considered as the violent death of the confederacy. Its more natural death is what we now seem to be on the point of experiencing, if the fœderal system be not speedily renovatèd in a more substantial form. It is not probable, considering the genius of this country, that the complying States would often be inclined to support the authority of the Union by engaging in a war against the non-complying States. They would always be more ready to pursue the milder course of putting themselves upon an equal footing with the delinquent members, by an imitation of their example. And the guilt of all would thus become the security of all. Our past experience has exhibited the operation of this spirit in its full light. There would in fact be an insuperable difficulty in ascertaining when force could with propriety be employed. In the article of pecuniary contribution, which would be the most usual source of delinquency, it would often be impossible to decide whether it had proceeded from disinclination, or inability. The pretence of the latter would always be at hand. And the case must be very flagrant in which its fallacy could be detected with sufficient certainty to justify the harsh expedient of compulsion. It is easy to see that this problem alone, as often as it should occur, would open a wide field for the exercise of

factionous views, of partiality and of oppression, in the majority that happened to prevail in the national council.

It seems to require no pains to prove that the States ought not to prefer a national constitution, which could only be kept in motion by the instrumentality of a large army, continually on foot to execute the ordinary requisitions or decrees of the government. And yet this is the plain alternative involved by those who wish to deny it the power of extending its operations to individuals. Such a scheme, if practicable at all, would instantly degenerate into a military despotism; but it will be found in every light impracticable. The resources of the Union would not be equal to the maintenance of an army considerable enough to confine the larger States within the limits of their duty; nor would the means ever be furnished of forming such an army in the first instance. Whoever considers the populousness and strength of several of these States singly at the present juncture, and looks forward to what they will become, even at the distance of half a century, will at once dismiss as idle and visionary any scheme, which aims at regulating their movements by laws, to operate upon them in their collective capacities, and to be executed by a coercion applicable to them in the same capacities. A project of this kind is little less romantic than that monster-taming spirit, which is attributed to the fabulous heroes and demi-gods of antiquity.

Even in those confederacies, which have been composed of members smaller than many of our counties, the principle of legislation for sovereign States, supported by military coercion, has never been found effectual. It has rarely been attempted to be employed, but against the weaker members: And in most instances attempts to coerce the refractory and disobedient, have been the signals of bloody wars; in which one half of the confederacy has displayed its banners against the other half.

The result of these observations to an intelligent mind must be clearly this, that if it be possible at any rate to construct a Fœderal Government capable of regulating the common concerns and preserving the general tranquility, it must be founded, as to the objects committed to its care, upon the reverse of the principle contended for by the opponents of the proposed constitution. It must carry its agency to the persons of the citizens. It must stand in need of no intermediate legislations; but must itself be empowered to employ the arm of the ordinary magistrate to execute its own resolutions. The majesty of the national authority must be manifested through the medium of the Courts of Justice. The government of the Union, like that of each State, must be able to address itself immediately to the hopes and fears of individuals; and to attract to its support, those passions, which have the strongest influ-

ence upon the human heart. It must in short, possess all the means and have a right to resort to all the methods of executing the powers, with which it is entrusted, that are possessed and exercised by the governments of the particular States.

To this reasoning it may perhaps be objected, that if any State should be disaffected to the authority of the Union, it could at any time obstruct the execution of its laws, and bring the matter to the same issue of force, with the necessity of which the opposite scheme is reproached.

The plausibility of this objection will vanish the moment we advert to the essential difference between a mere NON COMPLIANCE and a DIRECT and ACTIVE RESISTANCE. If the interposition of the State-Legislatures be necessary to give effect to a measure of the Union, they have only NOT TO ACT OR TO ACT EVASIVELY, and the measure is defeated. This neglect of duty may be disguised under affected but unsubstantial provisions, so as not to appear, and of course not to excite any alarm in the people for the safety of the constitution. The State leaders may even make a merit of their surreptitious invasions of it, on the ground of some temporary convenience, exemption, or advantage.

But if the execution of the laws of the national government, should not require the intervention of the State Legislatures; if they were to pass into immediate operation upon the citizens themselves, the particular governments could not interrupt their progress without an open and violent exertion of an unconstitutional power. No omissions, nor evasions would answer the end. They would be obliged to act, and in such a manner, as would leave no doubt that they had encroached on the national rights. An experiment of this nature would always be hazardous—in the face of a constitution in any degree competent to its own defence, and of a people enlightened enough to distinguish between a legal exercise and an illegal usurpation of authority. The success of it would require not merely a factious majority in the Legislature, but the concurrence of the courts of justice, and of the body of the people. If the Judges were not embarked in a conspiracy with the Legislature they would pronounce the resolutions of such a majority to be contrary to the supreme law of the land, unconstitutional and void. If the people were not tainted with the spirit of their State representatives, they, as the natural guardians of the constitution, would throw their weight into the national scale, and give it a decided preponderancy in the contest. Attempts of this kind would not often be made with liberty² or rashness; because they could seldom be made without danger to the authors; unless in cases of a tyrannical exercise of the Fœderal authority.

If opposition to the national government should arise from the disorderly conduct of refractory, or seditious individuals, it could be over-

come by the same means which are daily employed against the same evil, under the State governments. The Magistracy, being equally the Ministers of the law of the land, from whatever source it might emanate, would doubtless be as ready to guard the national as the local regulations from the inroads of private licentiousness. As to those partial commotions and insurrections which sometimes disquiet society, from the intrigues of an inconsiderable faction, or from sudden or occasional ill humours that do not infect the great body of the community, the general government could command more extensive resources for the suppression of disturbances of that kind, than would be in the power of any single member. And as to those mortal feuds, which in certain conjunctures spread a conflagration through a whole nation, or through a very large proportion of it, proceeding either from weighty causes of discontent given by the government, or from the contagion of some violent popular paroxism, they do not fall within any ordinary rules of calculation. When they happen, they commonly amount to revolutions and dismemberments of empire. No form of government can always either avoid or controul them. It is in vain to hope to guard against events too mighty for human foresight or precaution, and it would be idle to object to a government because it could not perform impossibilities.

1. See *The Federalist* 18-20 (CC:330, 333, 340).

2. The New York reprints and the M'Lean edition changed "liberty" to "levity."

318. Centinel V

Philadelphia Independent Gazetteer, 4 December¹

To the PEOPLE of PENNSYLVANIA.

Friends, Countrymen, and Fellow-Citizens, Mr. Wilson in a speech delivered in our Convention on Saturday the 24th instant,² has conceded; nay forceably proved, that one consolidated government, will not answer for so extensive a territory as the United States includes, that slavery would be the necessary fate of the people under such a government; his words are so remarkable, that I cannot forbear reciting them, they are as follows, viz. "The extent of country for which the new constitution was required, produced another difficulty in the business of the federal convention. It is the opinion of some celebrated writers, that to a small territory, the democratical, to a middling territory, (as Montesquieu has termed it) the monarchical, and, to an extensive territory, the despotic form of government, is best adapted.³ Regarding then, the wide and almost unbounded jurisdiction of the United States, at first view, the hand of despotism seemed necessary to controul, connect, and protect it; and hence the chief embarrassment rose. For, we knew that, although our constituents would cheerfully submit to the legislative

restraints of a free government, they would spurn at every attempt to shackle them with despotic power." See page 5 of the printed speech. And again in page 7, he says "Is it probable that the dissolution of the state governments, and the establishment of one consolidated empire, would be eligible in its nature, and satisfactory to the people in its administration? I think not, as I have given reasons to shew that so extensive a territory could not be governed, connected, and preserved, but by the supremacy of despotic power. All the exertions of the most potent emperors of Rome were not capable of keeping that empire together, which, in extent, was far inferior to the dominion of America."

This great point having been now confirmed by the concession of Mr. Wilson, though indeed it was self evident before, and the writers against the proposed plan of government, having proved to demonstration, that the powers proposed to be vested in Congress, will necessarily annihilate and absorb the state Legislatures and judiciaries and produce from their wreck one consolidated government, the question is determined. Every man therefore who has the welfare of his country at heart, every man who values his own liberty and happiness, in short, every description of persons, except those aspiring despots who hope to benefit by the misery and vassalage of their countrymen, must now concur in rejecting the proposed system of government, must now unite in branding its authors with the stigma of eternal infamy. The anniversary of this great escape from the fangs of despotism, ought to be celebrated as long as liberty shall continue to be dear to the citizens of America.

I will repeat some of my principal arguments, and add some further remarks, on the subject of consolidation.

The Legislative is the highest delegated power in government, all others are subordinate to it. The celebrated Montesquieu establishes it as a maxim, that legislation necessarily follows the power of taxation. By the 8th sect. of article the 1st of the proposed government, "the Congress are to have power to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defence and *general welfare*⁴ of the United States." Now, what can be more comprehensive than these words? Every species of taxation, whether external or internal are included. Whatever taxes, duties, and excises that the Congress may deem necessary to the *general welfare* may be imposed on the citizens of these states and levied by their officers. The congress are to be the absolute judges of the propriety of such taxes, in short they may construe every purpose for which the state legislatures now lay taxes, to be for the *general welfare*, they may seize upon every source of taxation, and thus make it impracticable for the states to have the smallest reve-

nue, and if a state should presume to impose a tax or excise that would interfere with a federal tax or excise, congress may soon terminate the contention, by repealing the state law, by virtue of the following section—"To make all laws which shall be necessary and proper for carrying into execution the foregoing powers and all other powers vested by this constitution in the government of the United States, or in any department thereof." Indeed every law of the states may be controuled by this power. The legislative power granted for these sections is so unlimited in its nature, may be so comprehensive and boundless in its exercise, that this alone would be amply sufficient to carry the coup de grace to the state governments, to swallow them up in the grand vortex of general empire. But the legislative has an able auxiliary in the judicial department, for a reference to my second number⁵ will shew that this may be made greatly instrumental in effecting a consolidation; as the federal judiciary would absorb all others. Lest the foregoing powers should not suffice to consolidate the United States into one empire, the Convention as if determined to prevent the possibility of a doubt, as if to prevent all clashing by the opposition of state powers, as if to preclude all struggle for state importance, as if to level all obstacles to the supremacy of universal sway, which in so extensive a territory, would be an iron-handed despotism, have ordained by article the 6th, "That this constitution, and the laws of the United States, which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the *supreme law of the land*; and the judges in every state shall be bound thereby any thing in the constitution or laws of any state to the contrary notwithstanding."

The words "pursuant to the constitution" will be no restriction to the authority of congress; for the foregoing sections gives them unlimited legislation; their unbounded power of taxation does alone include all others, as whoever has the purse strings will have full dominion. But the convention has superadded another power, by which the congress may stamp with the sanction of the constitution every possible law; it is contained in the following clause—"To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or in any department or officer thereof." Whatever law congress may deem necessary and proper for carrying into execution any of the powers vested in them, may be enacted; and by virtue of this clause, they may controul and abrogate any and every of the laws of the state governments, on the allegation that they interfere with the execution of any of their powers, and yet these laws will "be made in pursuance of the constitution," and of course will "be the supreme law of the

land, and the judges in every state shall be bound thereby, any thing in the *constitution* or *laws* of any state to the contrary notwithstanding."

There is no reservation made in the whole of this plan in favor of the rights of the separate states. In the present plan of confederation made in the year 1778, it was thought necessary by article the 2d to declare that "each state retains its sovereignty, freedom and independence, and every power, jurisdiction and right, which is not by this confederation *expressly* delegated to the United States in Congress assembled." *Positive* grant was not *then* thought sufficiently descriptive and restrictive upon congress, and the omission of such a declaration *now*, when such great devolutions of power are proposed, manifests the design of consolidating the states.

What restriction does Mr. Wilson pretend there is in the new constitution to the supremacy of despotic sway over the United States?⁶ What barrier does he assign for the security of the state governments? Why truly a mere cobweb of a limit! by interposing the shield of what will become mere *form*, to check the *reality* of power. He says, that the existence of the state governments are essential to the organization of congress; that the former is made the necessary basis of the latter, for the federal senators and president are to be appointed by the state legislatures; and that hence all fears of a consolidation are groundless and imaginary. It must be confessed, as reason and argument would have been foreign to the defence of the proposed plan of government, Mr. Wilson has displayed much ingenuity on this occasion, he has involved the subject in all the mazes of sophistry, and by subtil distinctions, he has established principles and positions, that exist only in his own fertile imagination. It is a solecism in politics for two co-ordinate sovereignties to exist together, you must separate the sphere of their jurisdiction, or after running the race of dominion for some time, one would necessarily triumph over the other; but in the mean time the subjects of it would be harrassed with double impositions to support the contention; however the strife between congress and the states could not be of long continuance, for the former has a decisive superiority in the outset, and has moreover the power by the very constitution itself to terminate it, when expedient.

As this necessary connexion, as it has been termed, between the state governments and the general government, has been made a point of great magnitude by the advocates of the new plan, as it is the only obstacle alledged by them against a consolidation, it ought to be well considered. It is declared by the proposed plan, that the federal senators and the electors who chuse the president of the United States, shall be appointed by the state legislatures for the long period of six and four

years respectively;—how will this connexion prevent the state legislatures being divested of every important, every efficient power? may not they, will not they dwindle into mere boards of appointment, as has ever happened in other nations to public bodies, who, in similar circumstances, have been so weak as to part with the essentials of power? Does not history abound with such instances? And this may be the mighty amount of this inseparable connexion, which is so much dwelt upon as the security of the state governments. Yet even this shadow of a limit against consolidation, may be annihilated by the imperial fiat, without any violation of even the forms of the constitution, section 4th of article the 1st has made a provision for this, when the people are sufficiently fatigued with the useless expence of maintaining the *forms* of departed power and security, and when they shall pray to be relieved from the imposition. This section cannot be too often repeated, as it gives such a latitude to the designing, as it revokes every other part of the constitution that may be tolerable, and as it may enable the administration under it, to complete the system of despotism; it is in the following words, viz. “The times, places and manner of holding elections for senators and representatives, shall be prescribed in each state by the legislature thereof; *but the Congress may at any time by law make or alter such regulations, except as to the place of chusing senators.*” The only apparent restriction in this clause, is as to the *place* of appointing senators, but even this may be rendered of no avail, for as the Congress have the controul over the time of appointment of both senators and representatives, they may under the pretence of an apprehension of invasion, upon the pretence of the turbulence of what they may stile a faction, and indeed pretences are never wanting to the designing, they may postpone the time of the election of the senators and the representatives from period to period to perpetuity; thus they may and if they may, they certainly will from the lust of dominion, so inherent in the mind of man, relieve the people from the trouble of attending elections by condescending to create themselves. Has not Mr. Wilson avowed it in fact? Has he not said in the Convention, that it was necessary that Congress should possess this power as the means of its own preservation, otherwise says he, an invasion, a civil war, a faction, or a secession of a minority of the assembly might prevent the representation of a state in Congress.

The advocates of the proposed government must be hard driven, when they represent, that because the legislatures of this and the other states have exceeded the due bounds of power, notwithstanding every guard provided by their constitutions; that because the lust of arbitrary sway is so powerful as sometimes to get the better of every obstacle; that therefore we should give full scope to it, for that all restriction would be

useless and nugatory. And further, when they tell you that a good administration will atone for all the defects in the government, which, say they, you must necessarily have, for how can it be otherwise, your rulers are to be taken from among yourselves.⁷ My fellow citizens, these aspiring despots, must indeed have a great contempt for your understandings, when they hope to gull you out of your liberties by such reasoning; for what is the primary object of government, but to check and controul the ambitious and designing, how then can moderation and virtue be expected from men, who will be in possession of absolute sway, who will have the United States at their disposal? They would be more than men, who could resist such temptation! their being taken from among the people, would be no security; tyrants are of native growth in all countries, the greatest bashaw in Turkey has been one of the people, as Mr. Wilson tells you the president-general will be. What consolation would this be, when you shall be suffering under his oppression.

Philadelphia, Nov. 30, 1787.

1. This essay was also printed as a broadside by Eleazer Oswald from the forms he had used in his *Independent Gazetteer*. It was reprinted in the *New York Journal* on 10 December and in a New York pamphlet anthology in April 1788 (Evans 21344). For the authorship, circulation, and impact of "Centinel," see CC:133.

2. See CC:289; RCS:Pa., 339-50.

3. *Spirit of Laws*, I, Book VIII, chapters XVI-XX, 177-81.

4. Throughout this essay, the italics used in quotations from the Constitution and the Articles of Confederation were supplied by "Centinel."

5. See "Centinel" II, Philadelphia *Freeman's Journal*, 24 October (CC:190).

6. In the remainder of this essay, "Centinel" refutes statements made by James Wilson in his State House Yard speech of 6 October (CC:134) and his Convention speech on 28 November (RCS:Pa., 400-6).

7. On 28 November Thomas McKean said in a speech in the Pennsylvania Convention that "Though a good system of government is certainly a blessing, yet it is on the administration of the best system, that the freedom, wealth, and happiness of the people depend. DESPOTISM, if wisely administered, is the best form of government invented by the ingenuity of man . . ." (*Pennsylvania Herald*, 1 December, RCS:Pa., 422-23).

319. Joseph Gilpin to Levi Hollingsworth Elk, 5 December¹

I have Just Received your favr of the 2d of this Instant. By which I find your Marketts Continue Dull for flour and flax Seed &c But it is But What we Must Exspect from the affect of our Bad Policy and the Innorchy of our Government-I send you 12 bbs of flour & they went with the flxseed [which?] Perhaps may be all for this Season as I have Not Been Rash Nor Sangin in ye Milling Besness for Sum time Past which Plase Sell at the Markett Price I am Glad to here that your Convention have Confirmed the federal Government and am In hopes it will urge

other States to Cumplee also as I have Been of an opinion that unless that Sistom Should take Place we Shall have No Government at all untill the Sowrd Gives one which Numbers wish for from thier having Nothing to Loose in a Scramble—our assembly have Put of[f] the Meeting of our Convention untill april Next for what Caus I Dont No with out it is to here what other States will Determan on for I Blive there is a Very Grate Megorrety of the People of this State in faver of the Sistom or at Least Dont wish to Run the Risk of having No federal Union—which by Braking that this [— —] will Disolve all other Government for when People have on[c]e Layed one Burden of[f] thier Shoulders the[y] will Not hesitate to throw off[f] the Rest and thereby Git Rid of their Debts &c—

1. RC, Hollingsworth Papers, PHi. Gilpin (c. 1727–1790), a Cecil County, Md., planter and saw-mill owner, was the presiding justice of the county court. He voted to ratify the Constitution in the Maryland Convention in April 1788. Hollingsworth (1739–1824) was a Philadelphia merchant.

320. Philadelphiensis III

Philadelphia Freeman's Journal, 5 December¹

JOEL ii. 15. “*Blow the trumpet in Zion, sanctify a fast, call a solemn assembly. Gather the people, sanctify the congregation, assemble the elders: Gather the children, and those that suck the breasts, let the bridegroom go forth of his chamber, and the bride out of her closet. Let the priests, the ministers of the Lord weep between the porch and the altar, and let them say, Spare thy people, O Lord, and give not thine heritage to reproach, that the heathen should rule over them.*”²

My Fellow-Citizens, Are you disposed to hear plain arguments, simple truths, and pure facts? If you are; then let me tell you, thro' the voice of reason, that the preservation of your little ones and yourselves, the love of mankind in general, and the liberty of your dear country, now demand your most serious attention. The peace, the freedom, and happiness of the present generation, and possibly many succeeding ones, are the great subjects now under discussion. Was there ever such an important time for America as this is? Can there be greater objects than these are, presented to the human understanding? I say there cannot: and I affirm it, that there is not a man in the United States, except some base assassin, or mean coward, who can be indifferent on this momentous occasion. Is there any one now among us who can remain unconcerned or neutral? If there be, I say he is not a *man*; no certainly, he is unworthy of that character; such a wretch can have no claim to the title of a free citizen of America, he is a pitiful sycophant, a cringing spaniel, a menial slave.

The independence of America, with great propriety, was thought, during our late glorious struggle, an object of such immense value, that we could scarce pay too high a price for it; an object that even dignified human nature; and that thousands of our countrymen magnanimously and cheerfully paid their blood for its purchase. But, great as this was, I say that the adoption of the new constitution is an object of much greater concern. The parents of a child may rejoice at his birth, as a happy circumstance, but his character and conduct in manhood only can give real and permanent pleasure; if these be bad, their pain is increased by disappointment; the recollection of their former joyous hopes, now augments their misery; yea, the misconduct of a son has frequently compelled his parents to curse the very day of his nativity. In this relation, the independence of America, and the new constitution exactly coincide. For if we adopt this plan of government in its present form; I say that we shall have reason to curse the day that America became independent. Horrid thought! that the greatest blessing God ever bestowed on a nation, should terminate in its misery and disgrace. Strange reverse this! that the freemen of America, *the favored of heaven*, should submit to a government so arbitrary in its embryo, that even a *bill of rights* cannot be obtained, to secure to the people their unalienable privileges.

It was a common saying among many sensible men in Great Britain and Ireland, in the time of the war, that they doubted whether the great men of America, who had taken an active part in favor of independence, were influenced by pure patriotism: that it was not the love of their country they had so much at heart, as their own private interest; that a thirst after *dominion and power*, and not to protect the *oppressed* from the *oppressor*, was the great operative principle that induced these men to oppose Britain so strenuously. This seemingly illiberal sentiment, was however generally denied by the well-hearted and unsuspecting friends of American liberty in Europe, who could not suppose that men would engage in so noble a cause through such base motives. But alas! the truth of the sentiment is now indisputably confirmed; facts are stubborn things, and these set the matter beyond controversy. The new constitution, and the conduct of its despotic advocates, shew that these men's doubts were really well founded. Unparalleled duplicity! that men should oppose tyranny under a pretence of patriotism, that they might themselves become the tyrants. How does such villainy disgrace human nature! Ah, my fellow-citizens, you have been strangely deceived indeed; when the wealthy of your own country assisted you to expel the foreign tyrant, only with a view to substitute themselves in his stead.

But <we want an efficient federal government; we want an efficient federal government: this is the constant theme of the day. Well, my friends, I grant this. But what is the ultimate end of an efficient government: in what should it be efficient? I hope you anticipate my answer. The only thing in which a government should be efficient, is to protect the *liberties, lives, and property* of the people governed, from foreign and domestic violence. This, and this only is what every government should do effectually. For any government to do more than this is impossible, and every one that falls short of it is defective.}>³ Let us now compare the new constitution with this legitimate definition of an efficient government, and we shall find that it has scarce a particle of an efficient government in its whole composition.

In the first place then it does not protect the people in those liberties and privileges that all freemen should hold sacred—The *liberty of conscience, the liberty of the press, the liberty of trial by jury, &c.* are all unprotected by this constitution. And in respect to protecting our *property* it can have no pretensions whatever to that; for the taxes must and will be so enormously oppressive, for supporting this expensive government, that the whole produce of our farms would not be sufficient to pay them.

As to this government being efficient, or rather sufficient to protect the people from the violence of a foreign enemy; the idea is so absurd that it offends common sense; it can neither have strength, energy, nor respectability, in the great scale of nations. For a new country to become strong and energetic, so as to be able to repel a foreign foe; the government must be *free and patriotic*, and the people must be *wealthy and well-affected* to it. Now if these requisites be wanting, that country is in jeopardy every moment; in fact it is on the direct road of falling a prey to the surrounding nations. In this miserable predicament, then, must America stand if we adopt the new constitution: for the government will neither be *free nor patriotic*, but on the contrary, *despotic and oppressive*; and the people will be *abject slaves* toiling to support a government, which they curse in their hearts: a government composed only of an *emperor and a few lordlings*, surrounded by thousands of blood-suckers, and cringing sycophants. And in respect to the *standing army*, it will only be made up of profligate idle ruffians, whose prowess will chiefly consist in feats of cruelty exercised on their innocent fellow citizens; but in facing a foreign foe, they will prove themselves a body of mean cowards; like the Turkish janizaries, better acquainted with plundering their country than fighting for its protection. In regard to a militia defending the country, the thing is still more absurd if possible. Who in his senses could suppose that people with their spirits broken by oppression, should voluntarily fight for that government, to which they are necessarily

disaffected? No truly, common sense would point out to government that its safety could not be the object of the people arming; and hence it is plain, that even were the militia willing to act, such a government would not trust them. Lastly, in respect to a navy, it is matter of mere moonshine, such an expensive government as this would be, could not spare as much money in fifty years, as would build three ships of the line. This is a short portrait of the *efficiency* of our *efficient* federal government. What think you of it, my fellow citizens?

1. This essay, with slightly different italics, was also printed in the Philadelphia *Independent Gazetteer* on 5 December. It was reprinted in the *Providence Gazette* on 22 December and the Boston *American Herald* on 21 January 1788. (See also note 3 below.) For an unnumbered item by "Philadelphiensis," which was also printed on 5 December in the *Independent Gazetteer*, immediately after "Philadelphiensis" III, see CC:237-C. For the authorship, circulation, and impact of "Philadelphiensis," see CC:237.

2. Joel 2:15-17.

3. The text within angle brackets was reprinted, without the pseudonym, in the *New York Journal* on 14 December.

321. Publius: The Federalist 17

New York Independent Journal, 5 December

This essay was written by Alexander Hamilton. It was reprinted in the *New York Daily Advertiser* and the *New York Packet* on 7 December; the supplement to the *Poughkeepsie Country Journal*, 22 January 1788; the *Pennsylvania Gazette*, 5 March; and the *Albany Gazette*, 13 March.

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

The FEDERALIST. No. XVII.

To the People of the State of New-York.

An objection of a nature different from that which has been stated and answered, in my last address, may perhaps be likewise urged against the principle of legislation for the individual citizens America. It may be said, that it would tend to render the government of the Union too powerful, and to enable it to absorb in itself those residuary authorities, which it might be judged proper to leave with the States for local purposes. Allowing the utmost latitude to the love of power, which any reasonable man can require, I confess I am at a loss to discover what temptation the persons entrusted with the administration of the general government could ever feel to divest the States of the authorities of that description. The regulation of the mere domestic police of a State appears to me to hold out slender allurements to ambition. Commerce, finance, negotiation and war seem to comprehend all the objects, which have charms for minds governed by that passion; and all the powers necessary to these objects ought in the first instance to be lodged in the national depository. The administration of private justice between the

citizens of the same State, the supervision of agriculture and of other concerns of a similar nature, all those things in short which are proper to be provided for by local legislation, can never be desirable cares of a general jurisdiction. It is therefore improbable that there should exist a disposition in the Fœderal councils to usurp the powers with which they are connected; because the attempt to exercise those powers would be as troublesome as it would be nugatory; and the possession of them, for that reason, would contribute nothing to the dignity, to the importance, or to the splendour of the national government.

But let it be admitted for argument sake, that mere wantonness and lust of domination would be sufficient to beget that disposition, still it may be safely affirmed, that the sense of the constituent body of the national representatives, or in other words of the people of the several States would controul the indulgence of so extravagant an appetite. It will always be far more easy for the State governments to encroach upon the national authorities, than for the national government to encroach upon the State authorities. The proof of this proposition turns upon the greater degree of influence, which the State governments, if they administer their affairs with uprightness and prudence, will generally possess over the people; a circumstance which at the same time teaches us, that there is an inherent and intrinsic weakness in all Fœderal Constitutions; and that too much pains cannot be taken in their organization, to give them all the force which is compatible with the principles of liberty.

The superiority of influence in favour of the particular governments would result partly from the diffusive construction of the national government; but chiefly from the nature of the objects to which the attention of the State administrations would be directed.

It is a known fact in human nature that its affections are commonly weak in proportion to the distance or diffusiveness of the object. Upon the same principle that a man [is] more attached to his family than to his neighbourhood, to his neighbourhood than to the community at large, the people of each State would be apt to feel a stronger byass towards their local governments than towards the government of the Union; unless the force of that principle should be destroyed by a much better administration of the latter.

This strong propensity of the human heart would find powerful auxiliaries in the objects of State regulation.

The variety of more minute interests, which will necessarily fall under the superintendance of the local administrations, and which will form so many rivulets of influence running through every part of the society,

cannot be particularised without involving a detail too tedious and uninteresting to compensate for the instruction it might afford.

There is one transcendent advantage belonging to the province of the State governments which alone suffices to place the matter in a clear and satisfactory light—I mean the ordinary administration of criminal and civil justice. This of all others is the most powerful, most universal and most attractive source of popular obedience and attachment. It is that, which—being the immediate and visible guardian of life and property—having its benefits and its terrors in constant activity before the public eye—regulating all those personal interests and familiar concerns to which the sensibility of individuals is more immediately awake—contributes more than any other circumstance to impressing upon the minds of the people affection, esteem and reverence towards the government. This great cement of society which will diffuse itself almost wholly through the channels of the particular governments, independent of all other causes of influence, would ensure them so decided an empire over their respective citizens, as to render them at all times a complete counterpoise and not unfrequently dangerous rivals to the power of the Union.

The operations of the national government on the other hand falling less immediately under the observation of the mass of the citizens the benefits derived from it will chiefly be perceived and attended to by speculative men. Relating to more general interests, they will be less apt to come home to the feelings of the people; and, in proportion, less likely to inspire a habitual sense of obligation and an active sentiment of attachment.

The reasoning on this head has been abundantly exemplified by the experience of all Fœderal constitutions, with which we are acquainted, and of all others, which have borne the least analogy to them.

Though the ancient Fœderal¹ systems were not strictly speaking confederacies, yet they partook of the nature of that species of association. There was a common head, chieftain, or sovereign, whose authority extended over the whole nation; and a number of subordinate vassals, or feudatories, who had large portions of land allotted to them and numerous trains of *inferior* vassals or retainers, who occupied and cultivated that land upon the tenure of fealty or obedience to the persons of whom they held it. Each principal vassal was a kind of sovereign within his particular demesnes. The consequences of this situation were a continual opposition to the authority of the sovereign, and frequent wars between the great barons, or chief feudatories themselves. The power of the head of the nation was commonly too weak either to preserve the public peace or to protect the people against the oppressions of their

immediate lords. This period of European affairs is emphatically stiled by historians the times of feudal anarchy.

When the sovereign happened to be a man of vigorous and warlike temper and of superior abilities, he would acquire a personal weight and influence, which answered for the time the purposes of a more regular authority. But in general the power of the barons triumphed over that of the prince; and in many instances his dominion was entirely thrown off, and the great fiefs were erected into independent principalities or states. In those instances in which the monarch finally prevailed over his vassals, his success was chiefly owing to the tyranny of those vassals over their dependents. The barons, or nobles equally the enemies of the sovereign and the oppressors of the common people were dreaded and detested by both; till mutual danger and mutual interest effected an union between them fatal to the power of the aristocracy. Had the nobles, by a conduct of clemency and justice, preserved the fidelity and devotion of their retainers and followers, the contests between them and the prince must almost always have ended in their favour and in the abridgement or subversion of the royal authority.

This is not an assertion founded merely in speculation or conjecture. Among other illustrations of its truth which might be cited Scotland will furnish a cogent example. The spirit of clanship which was at an early day introduced into that kingdom, uniting the nobles and their dependents by ties equivalent to those of kindred, rendered the aristocracy a constant overmatch for the power of the monarch; till the incorporation with England subdued its fierce and ungovernable spirit, and reduced it within those rules of subordination, which a more rational and a more energetic system of civil polity had previously established in the latter kingdom.

The separate governments in a confederacy may aptly be compared with the feudal baronies; with this advantage in their favour, that from the reasons already explained, they will generally possess the confidence and good will of the people; and with so important a support will be able effectually to oppose all incroachments of the national government. It will be well if they are not able to counteract its legitimate and necessary authority. The points of similitude consist in the rivalry of power, applicable to both, and in the CONCENTRATION of large portions of the strength of the community into particular DEPOSITS, in one case at the disposal of individuals, in the other case at the disposal of political bodies.

A concise review of the events that have attended confederate governments will further illustrate this important doctrine; an inattention to which has been the great source of our political mistakes, and has

given our jealousy a direction to the wrong side. This review shall form the subject of some ensuing papers.²

1. The word "Fœderal" was changed to "feudal" in the *New York Packet*, *Pennsylvania Gazette*, and *Albany Gazette* reprints and in the M'Lean edition.

2. See *The Federalist* 18-20 (CC:330, 333, 340).

322. A Countryman IV

New Haven Gazette, 6 December¹

To the People of Connecticut.

If the propriety of trusting your government in the hands of your representatives was now a perfectly new question, the expediency of the measure might be doubted. A very great portion of the objections which we daily find made against adopting the new constitution, (and which are just as weighty objections against our present government, or against any government in existence) would doubtless have their influence; and perhaps would determine you against trusting the powers of sovereignty out of your own hands.

The best theory, the best philosophy on the subject, would be too uncertain for you to hazard your freedom upon.

But your freedom in that sense of the expression (if it could be called sense) is already totally gone. Your Legislature is not only supreme in the usual sense of the word, but they have, LITERALLY, *all the powers of society*.—Can you—can you *possibly* grant any thing new?—Have you any power which is not already granted to your General Assembly? You are indeed called on to say whether a part of the powers now exercised by the General Assembly, shall not, in future, be exercised by Congress. And it is clearly much better for your interest, that Congress should exercise those powers, than that they should continue in the General Assembly, provided you can trust Congress as safely as the General Assembly.

What forms your security under the General Assembly? Nothing, save that the interest of the members is the same as yours. Will it be the same with Congress? There are essentially only two differences between the formation of Congress and of your General Assembly.—One is,—that Congress are to govern a much larger tract of country, and a much greater number of people, consequently your proportion of the government will be much smaller than at present. The other difference is,—that the members of Congress when elected, hold their places for two, four, and six years, and the members of Assembly only six and twelve months.

The first of these differences was discussed pretty fully in the first number,² (when there was no idea of proceeding thus far on the subject)

and has all the force as an objection against the powers of Congress, that it would have if applied to a proposal to give up the sovereignty of the several towns of the state, (if such sovereignty had existed) and unite in state government.

It would be only a repetition to enter into a consideration of this difference between Congress and your assembly.

It has been suggested that the six or eight members which we shall send to Congress will be men of property, who can little feel any burthens they may lay on society. How far is this idea supported by experience? As the members are to pay their proportion, will they not be as careful of laying too great burthens as poorer people? Are the rich less careful of their money than the poor? This objection would be much stronger against trusting the power out of your hands at all. If the several towns were now independent, this objection would be much more forcible against uniting in state government, and sending one or two of your most wealthy men to Hartford or New-Haven, to vote away your money. But this you have tried, and have found that assemblies of representatives are less willing to vote away money than even their constituents. An individual of any tolerable œconomy, pays all his debts, and perhaps has money beforehand. A small school district, or a small parish, will see what sum they want, and usually provide sufficiently for their wants, and often have a little money at interest.

Town voters are partly representatives: i.e. many people pay town taxes who have no right to vote, but the money they vote away is principally their own. The towns in this state tax themselves less willingly than smaller bodies. They generally however tax themselves sufficiently to nearly pay the demands against them within the year, very seldom raise money beforehand by taxes. The General Assembly of this state could never be induced to *attempt* to do more than pay the annual interest of what they owe, and occasionally sink very small parts of the principal, and they never in fact did thus much. And we are all witnesses that they are full as careful of the public money as we can wish. It never was a complaint that they were too ready to allow individuals large sums. A man who has a claim against a town, and applies to a town-meeting, is very likely to obtain justice: But he who has a claim against the state, and applies to the General Assembly, stands but a poor chance to obtain justice. Some rule will be found to exclude his claim,—or to lessen it,—or he will be paid in a security—not worth half the money.

You have uniformly experienced that your representatives are as careful, if not more so, of your money, than you yourselves are in your town-meetings; but still your representatives are generally men of prop-

erty, and those of them who are most independent, and those whom you have sent to Congress, have not been by any means the least careful.

1. Reprinted: *New York Journal*, 17 December. For the authorship and circulation of "A Countryman," see CC:261.

2. See CC:261.

323. "Z"

Boston Independent Chronicle, 6 December

On 3 December the *Boston Gazette* published Benjamin Franklin's last speech in the Constitutional Convention, which was delivered on 17 September (CC:77). By quoting and commenting on selected passages of the speech, "Z" tried to demonstrate that Franklin had signed the Constitution even though he believed it to be seriously defective. Similar arguments were presented in anonymous pieces in the *Portland Cumberland Gazette*, 6 December; *Massachusetts Gazette*, 14 December; and *Pennsylvania Herald*, 19 December.

"Z" was reprinted in the *New Hampshire Gazette*, 12 December; *New York Morning Post*, 14 December; *New York Journal*, 17 December; *Worcester Magazine*, first week in January 1788; and *Northampton Hampshire Gazette*, 16 January.

"A Federalist" defended Franklin's decision to support an imperfect Constitution because the "distracted States" needed the proposed new system (*Boston Gazette*, 10 December). James Madison described "Z's" version of Franklin's speech as "both mutilated & adulterated so as to change both the form & the spirit of it" (to George Washington, 20 December, CC:359).

Mess'rs. ADAMS & NOURSE, When I read Dr. FRANKLIN's address to the President of the late Convention, in the last Monday's Gazette, I was at a loss to judge, till I was informed by mere accident, from which of the contending parties it went to the press. "I confess," says the Doctor, (and observe the Printers tell us it was *immediately* before his signing) "I confess that I do not entirely approve of this Constitution at present." Surely, I thought, no zealous fœderalist, in his right mind, would have exposed his cause so much as to publish to the world that this great philosopher *did not* entirely approve the Constitution at the very moment when his "hand marked" his approbation of it; especially after the fœderalists themselves had so often and so loudly proclaimed, that he had *fully* and *decidedly* adopted it. The Doctor adds, "I am not sure I shall never approve it." This then is the only remaining hope of the fœderalists, so far as the Doctor's judgment is or may be of any service to their cause, that one time or another he *may* approve the new Constitution.

Again, says the Doctor, "In these sentiments I agree to this Constitution, with all its faults, if they are such; because I think a general government necessary for us, and there is no FORM of government but what may be a blessing to the people, if well administered." But are we to accept a form of government which we do not entirely approve of,

merely in hopes that it *will* be administered well? Does not every man know, that nothing is more liable to be abused than power. Power, without a check, in *any* hands, is tyranny; and such powers, in the hands of even *good men*, so infatuating is the nature of it, will probably be wantonly, if not tyrannically exercised. The world has had experience enough of this, in every stage of it. Those among us who cannot entirely approve the *new* Constitution as it is called, are of opinion, in order that any form may be well administered, and thus be made a blessing to the people, that there ought to be at least, an express reservation of certain inherent unalienable rights, which it would be equally sacrilegious for the people to *give away*, as for the government to *invade*. If the rights of conscience, for instance, are not sacredly reserved to the people, what security will there be, in case the government should have in their heads a predilection for any *one* sect in religion? what will hinder the civil power from erecting a national system of religion, and committing the law to a set of lordly priests, reaching, as the great Dr. *Mayhew* expressed it, from the desk to the skies?¹ An *Hierarchy* which has ever been the grand engine in the hand of civil tyranny; and tyrants in return will afford them opportunity enough to vent their rage on *stubborn hereticks*, by *wholesome severities*, as they were called by national religionists, in a country which has long boasted its freedom. It was doubtless for the peace of *that* nation, that there should be an *uniformity* in religion, and for the same *wise* and *good* reason, the act of uniformity remains *in force* to these enlightened times.²

The Doctor says, he is “*not* sure that this [is] *not* the best Constitution that we may expect.”³ Nor can he be sure that it might not have been made *better* than it now is, if the Convention had adjourned to a distant day, that they might have availed themselves of the sentiments of the people at large. It would have been no great condescension, even in that *august* Body, to have shown so *small* a testimony of regard to the judgment of their constituents. Would it not be acting more like men who wish for a *safe* as well as a *stable* government, to propose such amendments as would meliorate the form, than to approve it, as the Dr. would have us, “with all its faults, if they are such.” Thus the Doctor consents, and hopes the Convention will act *heartily* and *unanimously* in recommending the Constitution, wherever their influence may extend, and turn their future tho’ts and endeavors to the means of having it well administered.”⁴ Even a bad form of government may, in the Doctor’s opinion, be well administered—for, says he, there is *no* form of government, but what may be made a blessing to the people, *if* well administered. He evidently, I think, builds his hopes, that the Constitution proposed, will be a blessing to the people,—not on the *principles* of the

government itself, but on the *possibility*, that, with *all its faults*, it *may* be well administered;—and concludes, with wishing, that others, *who had objections* to it, would yet, like him, doubt of their own infallibility, and put their names to the instrument, to make an *Unanimity* MANIFEST! No wonder he *shed a tear*,⁵ as it is said he did, when he gave *his* sanction to the *New* Constitution.

1. In several of his writings and sermons, Jonathan Mayhew (1720–1766), a Boston Congregational minister, attacked the Anglican clergy as a danger to American liberties.

2. The Act of Uniformity (1662) declared that all clergymen had to make a declaration of “unfeigned assent and consent to all and every thing contained and prescribed” in the Book of Common Prayer of the Anglican Church.

3. In his speech, Franklin stated: “Thus I consent, Sir, to this Constitution, because I expect no better, and because I am not sure that it is not the best” (*Boston Gazette*, 3 December).

4. The italics are “Z’s.”

5. For three poems on Franklin’s “shedding tears of extacy” when signing the Constitution, see *Boston American Herald*, 19 November; *Massachusetts Gazette*, 20 November; and *Massachusetts Centinel*, 21 November (Appendix I).

324. Cincinnatus VI: To James Wilson, Esquire New York Journal, 6 December¹

Sir, When I stated the monied difficulties, which the new government will have to encounter, my chief object was to prove to our fellow citizens, the delusion into which you have led them in your speech, when you ventured “to predict that the great revenue of the United States, must, and always will be, raised by impost.” This is not the land, Sir, of *second sight*; and I have shewn that your prediction, is not founded on any knowledge of the subject. It is one of those numerous deceptions, that are practised upon the people to delude them into the toils that are spread for them by the proposed constitution.

To satisfy them more fully on the subject of the revenue, that is to be raised upon them, in order to give enormous fortunes to the jobbers in public securities, I shall lay before them a proposition to Congress, from Mr. Robert Morris, when superintendant of finance. It is dated, I think,^(a) the 29th of June, 1782, and is in these words:—“The requisition of a five per cent. impost, made on the 3d of February, 1781, has not yet been complied with by the state of Rhode-Island, but as there is reason to believe, that there compliance is not far off, this revenue may be considered as already granted.—It will, however, be very inadequate to the purposes intended. If goods be imported, and prizes introduced to the amount of twelve millions annually, the five per cent. would be six hundred thousand, from which at least one sixth must be deducted, as well for the cost of collection as for the various defalcations which will necessarily happen, and which it is unnecessary to enumerate. It is not

safe therefore, to estimate this revenue at more than, half a million of dollars; for though it may produce more, yet probably it will not produce so much. It was in consequence of this, that on the 27th day of February last, I took the liberty to submit the propriety of asking the states for a land tax of one dollar for every hundred acres of land—a poll-tax of one dollar on all freemen, and all male slaves, between sixteen and sixty, excepting such as are in the federal army, or by wounds or otherwise rendered unfit for service; and an excise of one eighth of a dollar [per gallon], on all distilled spiritous liquors. Each of these may be estimated at half a million; and should the product be equal to the estimation, the sum total of revenues for funding the public debts, would be equal to two millions.”²

You will readily perceive, Mr. Wilson, that there is a vast difference between your prediction and your friends proposition. Give me leave to say, Sir, that it was not discreet, in you, to speak upon finance without instructions from this great financier. Since, independent of its delusive effect upon your audience, it may excite his jealousy, lest you should have a secret design of rivalling him in the expected office of superintendant under the new constitution. It is true, there is no real foundation for it; but then you know jealousy makes the food it feeds on. A quarrel between two such able and honest friends to the United States, would, I am persuaded, be felt as a public calamity. I beseech you then to be very tender upon this point in your next harrangue. And if four months study will not furnish you with sufficient descretion, we will indulge you with six.

It may be said, that let the government be what it may, the sums I have stated must be raised, and the same difficulties exist. This is not altogether true. For first, we are now in the way of paying the interest of the domestic debt, with paper, which under the new system is utterly reprobated. This makes a difference between the specie to be raised of 1,800,000 dollars per annum. If the new government raises this sum in specie on the people, it will certainly support public credit, but it will overwhelm the people. It will give immense fortunes to the speculators; but it will grind the poor to dust. Besides the present government is now redeeming the principal of the domestic debt by the sale of western lands. But let the full interest be paid in specie, and who will part with the principal for those lands. A principal, which having been generally purchased for two shillings and six pence on the pound, will yield to the holders two hundred and forty per cent. This paper system therefore, though in general an evil, is in this instance attended with the great benefit of enabling the public to cancel a debt upon easy terms, which has been swelled to its enormous size, by as enormous impositions. And

the new government, by promising too much, will involve itself in a disreputable breach of faith, or in a difficulty of complying with it, insuperable.

The present government promises nothing.—The intended government, every thing.—From the present government little is expected:—From the intended one, much. Because it is conceived that to the latter much is given—to the former, little. And yet the inability of the people to pay what is required in specie, remaining the same, the funds of the one will not much exceed those of the other. The public creditors are easy with the present government from a conviction of its inability—they will be urgent with the new one from an opinion, that as it promises, so it can and will perform every thing. Whether the change will be for our prosperity and honour, is yet to be tried. Perhaps it will be found, that the supposed want of power in Congress to levy taxes, is at present a veil happily thrown over the inability of the people; and that the large powers given to the new government, will to every eye, expose the nakedness of our land. Certain it is, that if the expectations which are grafted on the gift of these plenary powers, are not answered, our credit will be irretrievably ruined.

Once more, Mr. Wilson, be pleased to pardon me for digressing. We come now to your last argument, or rather observation, which is in these terms—That as establishing the new government will—“turn the stream of influence and emolument into a new channel, therefore every person who enjoys or expects to enjoy a place of profit under the present establishment, will object to the proposed innovation, not in truth, because it is injurious to the liberties of his country, but because it affects his schemes of wealth and consequence.”

This reflection, sir, is as ingenious as it is liberal. It reaches every man who will not worship the new idol. It is the shibboleth of your party. Every man who differs in opinion with you, upon the new constitution, if he is not actually a placeman under the present establishment, may be an expectant; and then, according to your liberal and gentlemanly conclusion, his opinion must be imputed to his pursuit of wealth and consequence.

But how could it escape you, that this was a two-edged argument, and might cut its inventor. Perhaps these very violent gentlemen for the new establishment, may be actuated by the same undue motives. Perhaps some of its framers, might have had its honours and emoluments in view. When you have let loose suspicion, Mr. Wilson, there is no knowing where it will end. Perhaps some may be audacious enough to suspect even—YOU. They may think, that the emoluments of an attorney generalship, or of a chief justice largely provided for, under a govern-

ment gifted with almost chemic powers to extract gold from the people, might happily repair your shattered fortunes. Let us, Sir, suppose a man fallen from opulence into the most gloomy depths of monied distress, by an insatiable love of wealth and as unwise a pursuit of it:³ would not such a man be a fit instrument in the hands of others to agitate the introduction of the new constitution. Such a man would have no objection to the golden speculations which such a constitution holds forth. Such a man, albeit unused to speak without a fee, and a large one too, would deign to harrangue gratis for such an object. His crest would be brightened, his eloquence animated by an anticipation of that happy hour, when he might sail down this new pactolean channel, accompanied by his pathetic Doctor,⁴ to sing a requiem to our expired liberties, and chant hallelujahs to his approach—to wealth and consequence. Such a man, Sir, in such a mood, would, as you do, regard the new constitution, in every point of view, with a candid and disinterested mind, and be bold to assert, “that it is the best form of government which has ever been offered to the world.”

Such a man as I have painted, you know, Mr. Wilson, is not a fiction. What I have said was not to insult his distresses, but to admonish his discretion. He ought not to have touched ground, on which he, and his swelled superior, who dances him forth to the people, is so very vulnerable. Upon my honor, Sir, I do not know two men in the United States more tender in this point. Permit me then to admonish them, through you, never again to insult the patience of the public with insinuations about the judgment of men on the proposed constitution, being affected by schemes of wealth and consequence.

There is one very material power given to the proposed Congress, on which you have thought proper to be silent, and which as not coming within the scope of your speech I have reserved to this place. In the 4th section, it is said—“The times, places, and manner of holding elections for senators and representatives shall be prescribed in each state by the legislature thereof; but the Congress may at any time, by law, make or alter such regulations, except as to the places of chusing senators.”

In all our constitutions, the regulation of elections is fixed; not left to the legislature, because it is a fundamental right, in which the essence of liberty resides.

It is in fact the root of all rights. Nothing can be plainer than that Congress, under the pretence of regulating, might in various ways annihilate the freedom of elections. If ever the aristocracy should meet with a pliant representative, it will be easy so to regulate the times, places, and manner of holding elections—as to secure the complaisance of future representatives.

This power over elections is another proof of a prediction for the senate, and a determination to have a complete controul over the people. It participates precisely of the spirit, which dictated the rendering the power of impeachment nugatory, by the manner in which it is to be executed.

Thus too, the right of election, under controul from time to time, in point of manner, times, and places, is but a shadow in the people; while the substance will necessarily reside with those to whom the regulation of it is resigned. But the senate was too sacred to be subjected to this unhallowed touch. The aristocracy is elevated on high, while the democracy is trampled in the dust. If the people can indeed be deluded into such a surrender of their most sacred rights; it must arise from the precipitation with which they are called upon to decide. Still, however, I trust, that they will have discernment to discover the parts which are incompatible with their rights and liberties, and spirit to insist upon those parts being amended.

(a) *I say, I think, because, by accident, the month is erased in the note I have, and I have not access to public papers which would enable me to supply the defect.*

1. This item, a continuation of "Cincinnatus'" reply to James Wilson's speech of 6 October (CC:134), was reprinted in the Philadelphia *Freeman's Journal*, 12 December. For the authorship and circulation of "Cincinnatus," see CC:222.

2. This is an excerpt from Robert Morris' report of 29 July 1782, which had been submitted to a congressional committee composed of Samuel Osgood, Abraham Clark, and Arthur Lee. The committee reported on 5 August 1782 that the Superintendent's proposal was "in general too exceptionable to meet with the approbation of Congress; as it would operate very unequally, as well with respect to the different States, as to the inhabitants of each State" (JCC, XXII, 429-47).

3. "Cincinnatus" refers to James Wilson.

4. The reference is probably to Benjamin Rush. See CC:222, note 3, for an earlier attack on Rush by "Cincinnatus."

325. Richard Henry Lee to Governor Edmund Randolph Petersburg Virginia Gazette, 6 December¹

On 17 September 1787 the Constitutional Convention adjourned and Governor Edmund Randolph wrote fellow Virginian Richard Henry Lee, then serving in Congress, explaining why he had refused to sign the Constitution. The following day George Mason wrote Lee and explained why he had not signed the Constitution. (Neither letter is extant.) The Constitution was read in Congress on 20 September and in a few days Lee was reported to be "forming propositions for essential alterations in the Constitution, which will, in effect be to oppose it" (Edward Carrington to James Madison, 23 September, CDR, 326).

On 26 and 27 September Congress debated the manner in which it should transmit the Constitution to the state legislatures. Lee and other critics of the Constitution wanted it sent with an indication that the Convention had violated

the Articles of Confederation and the congressional resolution of 21 February 1787 (CC:1). Supporters of the Constitution wanted it transmitted with congressional approbation. Toward the end of the debate on the 27th, Lee proposed several amendments to the Constitution, but Congress did not consider them or place them on the journals. James Madison, a delegate to both the Convention and Congress, asserted that the amendments corresponded to the ideas of George Mason (to George Washington, 30 September, and to Thomas Jefferson, 24 October, CC:114, 187. For Mason's objections, see CC:138, 276.). On 28 September a compromise was fashioned as the states in Congress voted unanimously to send the Constitution to the state legislatures without approbation or disapproval, but with the suggestion that the legislatures call ratifying conventions. (For the debates in Congress, see CC:95.)

Between 29 September and 5 October Lee sent copies of his amendments to Elbridge Gerry, George Mason, William Shippen, Jr., and Samuel Adams (CDR, 342; CC:117, 122, 132). On 16 October Lee wrote to Edmund Randolph giving his opinion on the Constitution and enclosing a copy of his amendments. On his return to Virginia, Lee probably distributed other copies of the amendments to Antifederalists he conferred with in Philadelphia on 6 November, and to individuals in Chester, Pa., and Wilmington, Del. (RCS:Pa., 236; CC:255, 280). It is also likely that he discussed the amendments with George Washington when visiting Mount Vernon on 11 and 12 November (CC:152).

Obviously, then, Lee had no intention of concealing his opposition to the Constitution, and, in fact, he allowed two of his correspondents to make the amendments public. He informed William Shippen, Jr., of Pennsylvania that "Perhaps" the amendments "may be submitted to the world at large" (CC:122), while he invited Randolph to "make such use of this letter as you shall think to be for the public good." There is no record that Lee's letter and amendments circulated in manuscript in Pennsylvania, but, in Virginia, George Washington reported that manuscript copies of the letter "circulated with great industry" (to James Madison, 7 December, CC:328).

On 16 November the Winchester *Virginia Gazette* printed Lee's amendments under the heading "*Observations on the Plan of Government, proposed by the Convention. By R. H. L**, Esquire.*" This printing generated little response. Three weeks later, on 6 December, the Petersburg *Virginia Gazette* published Lee's letter to Randolph and the accompanying amendments. The following day Washington sent Madison "a printed Copy" of Lee's letter (CC:328). (For a reference to Lee's letter and amendments published as a pamphlet and available in early December, see "Valerius," *Virginia Independent Chronicle*, 23 January 1788; and *ibid.*, 12, 19 December 1787. Also see "The State Soldier" III, *Virginia Independent Chronicle*, 12 March 1788.)

Between 20 December and 16 February 1788, the letter and amendments were reprinted in twelve newspapers: N.H. (1), Mass. (1), R.I. (1), N.Y. (2), Pa. (5), Md. (1), Va. (1). They also appeared in a pamphlet anthology published by Augustine Davis in Richmond, Va., in mid-December (CC:350), and in the December issue of the Philadelphia *American Museum*. The letter, without the amendments, was reprinted in the three Charleston, S.C., newspapers from 7 to 14 January 1788, while the *Salem Mercury* published a summary and excerpts from the letter on 8 January. The Portland *Cumberland Gazette* reprinted the *Mercury's* version on 24 January.

The responses to Lee's letter and amendments were voluminous. On 7 December Washington reported to James Madison that Lee's letter was "said to have had

a bad influence." Madison responded on 20 December that "It does not appear to me to be a very formidable attack on the new Constitution, unless it should derive an influence from the names of the correspondents, which its intrinsic merits do not entitle it to" (CC:328, 359). James Madison, Sr., wrote his son that Lee's letter was "much approved of by some, & as much ridiculed by others . . ." (30 January 1788, Rutland, *Madison*, X, 446). General William Russell, a recent member of the Virginia House of Delegates, agreed with Lee that amendments were needed to curb the extensive powers of Congress, while William Fleming of Botetourt County, a former member of the Virginia Senate and Council, supported Lee's belief that the Constitution endangered the privileges of the people (Russell to Fleming, 25 January 1788, Emmet Collection, NN; and Fleming to Thomas Madison, 19 February, Draper Manuscripts, Virginia Papers, WHi. Fleming favored amendments in the Virginia Convention, but voted for ratification of the Constitution in June 1788.). A North Carolinian implied that Lee was "a proud passionate man" who was either ignorant or devious (Benjamin Hawkins to James Madison, 14 February, Rutland, *Madison*, X, 508). And John Armstrong of Pennsylvania believed that Lee's letter was written with "decency," but that it contained "more of the air than the Substance of the Statesman . . ." (to George Washington, 20 February, Washington Papers, DLC).

About a dozen major essays were published in response to Lee's letter and amendments. Federalists refuted all of Lee's criticisms and rejected his proposal for a bill of rights to be drafted by a second general convention. They also accused Lee of being ambitious, lacking integrity and ability, and motivated by his hatred of Washington, who would become the first President under the new government. See "One of the People," *Maryland Journal*, 25 December (CC:377); "An American" (Tench Coxe), *Philadelphia Independent Gazetteer*, 28 December (CC:392-A); "An Impartial Citizen," Petersburg *Virginia Gazette*, 10 January 1788 (reprinted in the *Pennsylvania Mercury*, 31 January); "Caroliniensis," Charleston *Columbian Herald*, 10 January; "An Independent Freeholder" (Alexander White), Winchester *Virginia Gazette*, 18, 25 January; "Valerius," "The State Soldier" III, and "Cassius," *Virginia Independent Chronicle*, 23 January, 12 March, 2, 9, 23 April; and "A Native of Virginia," *Observations upon the Proposed Plan of Federal Government* . . . (Evans 21264).

This Federalist criticism was ignored by Richard Henry Lee who explained "I disdain to notice those Scribblers in the News papers altho they have honored me with their abuse—My attention to them will never exist whilst there is a Cat or a Spaniel in the House!" (to Edmund Pendleton, 26 May 1788, Misc. Coll., CSMH).

The only substantial defense of Lee was by "Brutus" in the *Virginia Independent Chronicle* on 14 May 1788.

Copy of a letter from the Hon. Richard Henry Lee, Esq; one of the Delegates from this State in Congress, to his Excellency the Governor.

New-York, Oct. 16, 1787.

DEAR SIR, I was duly honored with your favor of September 17th, from Philadelphia, which should have been acknowledged long before now, if the nature of the business that it related to had not required time.

The establishment of the new plan of government, in its present form, is a question that involves such immense consequences to the present

times and to posterity, that it calls for the deepest attention of the best and wisest friends of their country and of mankind. If it be found good after mature deliberation, adopt it, if wrong, amend it at all events, for to say (as many do) that a bad government must be established for fear of anarchy, is really saying that we must kill ourselves for fear of dying. Experience and the actual state of things, shew that there is no difficulty in procuring a general convention; the late one being collected without any obstruction: Nor does external war, or internal discord prevent the most cool, collected, full, and fair discussion of this all-important subject. If with infinite ease, a convention was obtained to prepare a system, why may not another with equal ease be procured to make proper and necessary amendments? Good government is not the work of a short time, or of sudden thought. From *Moses* to *Montesquieu* the greatest geniuses have been employed on this difficult subject, and yet experience has shewn capital defects in the system produced for the government of mankind. But since it is neither prudent or easy to make frequent changes in government, and as bad governments have been generally found the most fixed; so it becomes of the last consequence to frame the first establishment upon ground the most unexceptionable, and such as the best theories with experience justify; not trusting as our new constitution does, and as many approve of doing, to time and future events to correct errors, that both reason and experience in similar cases, point out in the new system. It has hitherto been supposed a fundamental maxim that in governments rightly balanced, the different branches of legislature should be unconnected, and that the legislative and executive powers should be separate:—In the new constitution, the president and senate have all the executive and two thirds of the legislative power. In some weighty instances (as making all kinds of treaties which are to be the laws of the land) they have the whole legislative and executive powers. They jointly, appoint all officers civil and military, and they (the senate) try all impeachments either of their own members, or of the officers appointed by themselves.

Is there not a most formidable combination of power thus created in a few, and can the most critic eye, if a candid one, discover responsibility in this potent corps? Or will any sensible man say, that great power without responsibility can be given to rulers with safety to liberty? It is most clear that the parade of impeachment is nothing to them or any of them—as little restraint is to be found, I presume from the fear of offending constituents.—The president is for four years duration (and Virginia for example) has one vote of thirteen in the choice of him, and this thirteenth vote not of the people, but electors, two removes from the people. The senate is a body of six years duration, and as in the choice

of president, the largest state has but a thirteenth vote, so is it in the choice of senators.—This latter statement is adduced to shew that responsibility is as little to be apprehended from amenability to constituents, as from the terror of impeachment. You are, therefore, Sir, well warranted in saying, either a monarchy or aristocracy will be generated, perhaps the most grievous system of government may arise. It cannot be denied with truth, that this new constitution is, in its first principles, highly and dangerously oligarchic; and it is a point agreed that a government of the few, is, of all governments, the worst. The only check to be found in favor of the democratic principle in this system is, the house of representatives; which I believe may justly be called a mere shread or rag of representation: It being obvious to the least examination, that smallness of number and great comparative disparity of power, renders that house of little effect to promote good, or restrain bad government. But what is the power given to this ill constructed body? To judge of what may be for the general welfare, and such judgments when made, the acts of Congress become the supreme laws of the land. This seems a power co-extensive with every possible object of human legislation.—Yet there is no restraint in form of a bill of rights, to secure (what Doctor Blackstone calls) that residuum of human rights, which is not intended to be given up to society, and which indeed is not necessary to be given for any good social purpose.²—The rights of conscience, the freedom of the press, and the trial by jury are at mercy. It is there stated, that in criminal cases, the trial shall be by jury. But how? In the state. What then becomes of the jury of the vicinage or at least from the county in the first instance, for the states being from 50 to 700 miles in extent? This mode of trial even in criminal cases may be greatly impaired, and in civil causes the inference is strong, that it may be altogether omitted as the constitution positively assumes it in criminal, and is silent about it in civil causes.—Nay, it is more strongly discountenanced in civil cases by giving the supreme court in appeals, jurisdiction both as to law and fact. Judge Blackstone in his learned commentaries, art. jury trial, says, it is the most transcendant privilege which any subject can enjoy or wish for, that he cannot be affected either in his property, his liberty, his person, but by the unanimous consent of 12 of his neighbours and equals.³ A constitution that I may venture to affirm has under providence, secured the just liberties of this nation for a long succession of ages.—The impartial administration of justice, which secures both our persons and our properties, is the great end of civil society. But if that be entirely *entrusted* to the magistracy, a select body of men, and those generally selected by the prince, or such as enjoy the highest offices of the state, these decisions in spite of their own natural

integrity, will have frequently an involuntary bias towards those of their own rank and dignity. It is not to be expected from human nature, that the few should always be attentive to the good of the many. The learned judge further says, that every tribunal selected for the decision of *facts*, is a step towards establishing aristocracy; the most oppressive of all governments. The answer to these objections is, that the new legislature may provide remedies!—But as they may, so they may not, and if they did, a succeeding assembly may repeal the provisions.—The evil is found resting upon constitutional bottom, and the remedy upon the mutable ground of legislation, revocable at any annual meeting. It is the more unfortunate that this great security of human rights, the trial by jury, should be weakened in this system, as power is unnecessarily given in the second section of the third article, to call people from their own country in all cases of controversy about property between citizens of different states and foreigners, with citizens of the United States, to be tried in a distant court where the Congress may sit. For although inferior congressional courts may for the above purposes be instituted in the different states, yet this is a matter altogether in the pleasure of the new legislature, so that if they please not to institute them, or if they do not regulate the right of appeal reasonably, the people will be exposed to endless oppression, and the necessity of submitting in multitudes of cases, to pay unjust demands, rather than follow suitors, through great expence, to far distant tribunals, and to be determined upon there, as it may be, without a jury.—In this congressional legislature, a bare majority of votes can enact commercial laws, so that the representatives of the seven northern states, as they will have a majority, can by law create the most oppressive monopoly upon the five southern states, whose circumstances and productions are essentially different from theirs, although not a single man of these voters are the representatives of, or amenable to the people of the southern states. Can such a set of men be, with the least colour of truth called a representative of those they make laws for? It is supposed that the policy of the northern states will prevent such abuses. But how feeble, Sir, is policy when opposed to interest among trading people:—And what is the restraint arising from policy? Why that we may be forced by abuse to become ship-builders!—But how long will it be before a people of agriculture can produce ships sufficient to export such bulky commodities as ours, and of such extent; and if we had the ships, from whence are the seamen to come? 4000 of whom at least will be necessary in Virginia. In questions so liable to abuse, why was not the necessary vote put to two thirds of the members of the legislature? With the constitution came from the convention, so many members of that body to Congress, and of those too, who were among the most fiery

zealots for their system, that the votes of three states being of them, two states divided by them, and many others mixed with them, it is easy to see that Congress could have little opinion upon the subject.⁴ Some denied our right to make amendments, whilst others more moderate agreed to the right, but denied the expediency of amending; but it was plain that a majority was ready to send it on in terms of approbation—my judgment and conscience forbid the last, and therefore I moved the amendments that I have the honor to send you inclosed herewith, and demanded the yeas and nays that they might appear on the journal. This seemed to alarm and to prevent such appearance on the journal, it was agreed to transmit the constitution without a syllable of approbation or disapprobation; so that the term unanimously only applied to the transmission, as you will observe by attending to the terms of the resolve for transmitting. Upon the whole, Sir, my opinion is, that as this constitution abounds with useful regulations, at the same time that it is liable to strong and fundamental objections, the plan for us to pursue, will be to propose the necessary amendments, and express our willingness to adopt it with the amendments, and to suggest the calling of a new convention for the purpose of considering them. To this I see no well founded objection, but great safety and much good to be the probable result. I am perfectly satisfied that you make such use of this letter as you shall think to be for the public good; and now after begging your pardon for so great a trespass on your patience, and presenting my best respects to your lady, I will conclude with assuring you, that I am with the sincerest esteem and regard, dear Sir, your most affectionate and obedient servant, RICHARD HENRY LEE.

POSTSCRIPT.⁵

It having been found from universal experience, that the most express declarations and reservations are necessary to protect the just rights and liberty of mankind from the silent, powerful and ever active conspiracy of those who govern; and it appearing to be the sense of the good people of America, by the various bills or declarations of rights whereon the government of the greater number of states are founded. That such precautions are necessary to restrain and regulate the exercise of the great powers given to rulers. In conformity with these principles, and from respect for the public sentiment on this subject, it is submitted,—That the new constitution proposed for the government of the United States be bottomed upon a declaration or bill of rights, clearly and precisely stating the principles upon which this social compact is founded, to wit: That the rights of conscience in matters of religion ought not to be violated—That the freedom of the press shall be secured—That the trial by

jury in criminal and civil cases, and the modes prescribed by the common law for the safety of life in criminal prosecutions, shall be held sacred—That standing armies in times of peace are dangerous to liberty, and ought not to be permitted, unless assented to by two-thirds of the members composing each house of the legislature under the new constitution—That the elections should be free and frequent; That the right administration of justice should be secured by the independency of the judges; That excessive bail, excessive fines, or cruel and unusual punishments, should not be demanded or inflicted; That the right of the people to assemble peaceably, for the purpose of petitioning the legislature, shall not be prevented; That the citizens shall not be exposed to unreasonable searches, seizure of their persons, houses, papers or property; and it is necessary for the good of society, that the administration of government be conducted with all possible maturity of judgment, for which reason it hath been the practice of civilized nations, and so determined by every state in the Union: That a council of state or privy council should be appointed to advise and assist in the arduous business assigned to the executive power. Therefore let the new constitution be so amended, as to admit the appointment of a privy council, to consist of eleven members chosen by the president, but responsible for the advice they may give. For which purpose the advice given shall be entered in a council book, and signed by the giver, in all affairs of great moment, and that the counsellors act under an oath of office. In order to prevent the dangerous blending of the legislative and executive powers, and to secure responsibility, the privy, and not the senate shall be joined with the president in the appointment of all officers, civil and military, under the new constitution; that the constitution be so altered as not to admit the creation of a vice-president, when duties as assigned may be discharged by the privy council, except in the instance of proceeding in the senate, which may be supplied by a speaker chosen from the body of senators by themselves, as usual, that so may be avoided the establishment of a great officer of state, who is sometimes to be joined with the legislature, and sometimes to administer the government, rendering responsibility difficult, besides giving unjust and needless pre-eminence to that state from whence this officer may have come. That such parts of the new constitution be amended as provide imperfectly for the trial of criminals by a jury of the vicinage, and to supply the omission of a jury trial in civil causes or disputes about property between individuals, whereby the common law is directed, and as generally it is secured by the several state constitutions. That such parts of the new constitution be amended, as permit the vexatious and oppressive call-

ings of citizens from their own country, and all controversies between citizens of different states and between citizens and foreigners, to be tried in a far distant court, and as it may be without a jury, whereby in a multitude of cases, the circumstances of distance and expence may compel numbers to submit to the most unjust and ill-founded demand—That in order to secure the rights of the people more effectually from violation, the power and respectability of the house of representatives be increased, by increasing the number of delegates to that house, where the popular interest must chiefly depend for protection—That the constitution be so amended as to increase the number of votes necessary to determine questions in cases where a bare majority may be seduced by strong motives of interest to injure and oppress the minority of the community, as in commercial regulations, where advantage may be taken of circumstances to ordain rigid and premature laws, that will in effect amount to monopolies, to the great impoverishment of those states whose peculiar situation expose them to such injuries.⁶

1. The 6 December issue of the Petersburg *Virginia Gazette* has not been located. The text of Lee's letter and amendments is taken from the *Pennsylvania Packet* of 20 December, the earliest known reprint. The *Packet* reprinted the letter and amendments under the dateline "PETERSBURG, Dec. 6."

2. *Commentaries*, Book I, chapter I, 129.

3. *Ibid.*, Book III, chapter XXIII, 379.

4. For more on the individuals who sat in both the Convention and Congress and how they voted in Congress, see CDR, 322, 324–25, 334, and Arthur Lee to John Adams, 3 October (CC:127).

Richard Henry Lee had believed for some time that it was a conflict of interest for Convention delegates to sit in Congress and pass judgment on their work in the Convention. In fact, he had refused appointment to the Convention for this reason (to John Adams, 3 September, Adams Family Papers, MHi). On 27 October Lee wrote Samuel Adams that his concern on this matter had been "fully verified" by the events in Congress respecting the transmission of the Constitution to the states (CC:199).

5. The newspaper version of Lee's proposed amendments differs somewhat from the manuscript versions sent to various correspondents. For these variations, compare the manuscript version of the amendments received by Elbridge Gerry (CC:95) with the newspaper version printed here. (See also note 6, immediately below.)

6. Instead of this last sentence, the manuscript version of the amendments received by Elbridge Gerry reads: "That the New Constitution be so altered as to increase the number of Votes necessary to determine questions relative to the creation of new or the amendment of old Laws, as it is directed in the choice of a President where the Votes are equal from the States; it being certainly as necessary to secure the Community from oppressive Laws as it is to guard against the choice of an improper President. The plan now admitting of a bare majority to make Laws, by which it may happen that 5 States may Legislate for 13 States tho 8 of the 13 are absent—

"That the new Constitution be so amended as to place the right of representation in the Senate on the same ground that it is placed in the House of Delegates thereby securing equality of representation in the Legislature so essentially necessary for good government."

326. A True Friend Richmond, 6 December¹

"A True Friend," a one-page broadside, is dated "December 5, 1787" and was probably available for sale and/or distribution by the next day. On the verso of the only known copy of the broadside is a 7 December letter from Jean Savary de Valcoulon of Richmond to Bertier and Co., a Philadelphia mercantile firm. Savary, a young French immigrant and businessman, was a partner of Albert Gallatin of Pennsylvania in the purchase of western lands.

Writing in French, Savary stated that the broadside had been printed by Augustine Davis of the *Virginia Independent Chronicle* who had not yet published it in his weekly newspaper. Savary asked that Bertier and Co. have the broadside reprinted if it met with their approval. At the bottom of the broadside, in an unidentified hand, is the statement: "[Je?] trouve ce discours excellent" [I find this treatise excellent].

Augustine Davis reprinted "A True Friend" from the same forms, with three alterations (see notes 2 to 4 below), in his *Virginia Independent Chronicle* on 12 December. Ten days later this version was reprinted in the Philadelphia *Independent Gazetteer*. Lengthy excerpts of "A True Friend," with minor changes, were also reprinted in the *Salem Mercury* on 8 January 1788 and in the Portland *Cumberland Gazette* on 24 January.

*To the ADVOCATES for the NEW FEDERAL CONSTITUTION;
and to their ANTAGONISTS.*

GENTLEMEN, You have already pretty nearly agreed, if you be, as I believe you are, well intentioned; at least it is easy to compromise matters between you, unless under the veil of the public good, or of a jealous care for the liberties of your country, you are actuated by private or interested motives.

If you are swayed by the pure and chaste love alone of your country, I, this day, offer myself to become arbitrator between you; to reconcile your differences, and if possible, put an end to these ingenious dissertations, which hold the public opinion in suspense.

Let us then, in the first place, agree on a few preliminary positions. You, gentlemen, the preachers up of the new Constitution, will not surely contest a fact proved by the records of all ages and of all nations, that is, *that the liberties and the rights of the people have been always encroached on, and finally destroyed by those, whom they had entrusted with the powers of government*; these have continually abused the confidence reposed in them; and whether this confidence was placed in a single magistrate, or in a body of magistrates, the authority ceded to them by the people has been constantly turned against themselves; has subjected; and in fine enslaved them. The precaution, which they have sometimes taken, to divide this solemn trust amongst different departments, and to balance these one against the other, has not been hitherto capable of affording a sufficient mound against these dreadful encroachments; for it is unhappily in the nature of men, when collected for any purpose whatsoever

into a body, to take a selfish and interested bias, tending invariably towards the encreasing of their prerogatives and the prolonging of the term of their function; but what is yet more unfortunate, those corps have been always victorious over the unconnected, the divided opposition, that men acting individually could make against them: Since then this fact is as certain and incontrovertible a principle in politics, as universal attraction is in physics, the people of this country, blessed with the heavenly boon of liberty, ought to be, to day, not only circumspect, but cautious and suspicious too in the extent of the powers they should delegate, in the choice of the persons they should delegate them to, and in the term of time it may be prudent to continue them in office; thus to guard against incurring the same fate with all the different governments, with which we have been hitherto made acquainted. It would even seem as if the examples, which Poland, Sweden, Geneva, and Holland exhibit, had been reserved by providence for this age, to give this rising empire more striking and experimental lessons.

Neither can you, gentlemen, who oppose the new constitution, disown the pressing necessity there is for a fœderal constitution, which may reunite into one whole, and on an uniform regular plan, the different interests and separate advantages of the thirteen states, united at present, 'tis true, in name; though in fact divided and opposed one to the other. You wish, or most undoubtedly you ought to wish, to see good order and mutual confidence established at home, and your credit and reputation flourishing among the nations abroad; these, these are the means, which must give a rapid progression to our agriculture, to our commerce, and to our navigation. Without these main springs of public felicity, our finances must necessarily remain in their present state of penury and contempt, we shall continue overwhelmed with our debts and difficulties, and be daily forced on ruinous and dishonorable expedients: We shall thus be stunted in our growth, nor can we surely flatter ourselves with being esteemed a free, happy, and recommendable people.

These two cardinal points being thus invariably fixed, and, too true to say, incontestible by either party; the obvious consequences are—1st. A pressing necessity for a new plan of general government; and 2d.—The indispensable obligation we are under to ourselves, to posterity, to the whole world in short, to guard with jealous care and watchful anxiety, in its utmost purity, that glorious and darling deposit, with which Providence has blessed us, perhaps, for the common good of mankind: These should be the aims of every true patriot, and they are doubtless these of both contending parties. To ensure success in the attaining of them, the different states culled out the men of the most enlightened understand-

ings and of the most conspicuous merit: They brought them together in order to discuss, balance and arrange their separate and individual interests, on a uniform comprehensive plan, and into a system founded on justice and reciprocal advantages: It was out of this assembly alone, that we could flatter ourselves that this grand and generous system should arise; there, opinions were contrasted and wisdom united—partial views were banished—salutary and indispensable concessions mutually made;—there, objections were discussed, and satisfactory solutions given to them: It is therefore now both useless and impossible for us to reply to all these, which each state may make, and how much more would the difficulty encrease, should it be attempted to give answers to each individual in those states? None of those are now placed in the proper situation, to take a large and comprehensive view of this extensive prospect; they see but their immediate, partial, and, perhaps, delusive interests: The people in their private capacities are not more likely to discover the solidity or the futility of the reasons, or of the objections of each party. The encomiums and the censures, the attacks and the defences, are set forth with equal acrimony and address; they terrify but do not instruct us: These essays and reasonings give, indeed, proofs of the ingenuity and talents of the champions, and sometimes, alas, of the abuse which they make of them! They likewise prove a melancholy truth; of which every man of reflection had been previously convinced. It is, *the impossibility of framing a good constitution on any one invariable foundation so firmly as never to be shaken.* The best that can be devised will at last be vitiated by the corroding hand of time, and can only be kept pure by continually modifying it according to circumstances, and by bringing it now and then to the test of its general principles: The citizens of America will then, with the utmost reason, repose no confidence in these writers and reasoners, who are ready to level without being able to edify; who raise doubts and fears in order to hinder or to retard the execution of a plan, which is the result of the reflection, the debates and the wisdom of patriots, whom they themselves made choice of: But, as notwithstanding their extensive knowledge and their pure intentions, they are not exempted from the common lot of human frailty, and as it is possible, that they may have erred in some parts of that great art, so difficult to be attained, of *governing without enslaving*; as the extent of our country, our situation, our manners and national character cannot be pertinently compared to any thing, which has hitherto existed on earth, we should not, consequently, model ourselves servilely on any system of government, which has yet appeared, or pin our faith on any political writer whatsoever, be his reputation what it may. Sound reason and urgent necessity lay their positive commands on us to accept the new

fœderal constitution; but, on the other hand prudence seems to require from us, that we should adopt it on trial only for a certain limited time, for eight, ten, or twelve years: at the expiration of which ever of these periods may be agreed on, we will again call a general convention, in order to rectify the defects or lapses, which the unerring guides, time and experience may discover: this will then reform what our circumstances may point out for reformation. It is a general principle in legislation, which, if well understood, would abridge very much the study of that science for the body of the people, *that the greater the power is with which it invests its governors, the shorter should be the limits of its duration; and on the contrary, that the smaller the power is, the longer it may be permitted to continue.* This may be held as certain an axiom in politics as this is in mechanics; that² we cannot increase force but at the expence of velocity, nor increase velocity but at the expence of force. The constitution fixed on at the time of the declaration of our independence was universally admired; it was then, perhaps, the best we could aspire to, we now find it inadequate, and we reform it. The new constitution has its enthusiastic admirers, it is nevertheless imprudent that we should accept it on any other condition, but that of its laying itself open at a stated period for correction, if necessary, or for being confirmed for another stated period, if expedient: Under these two grand guides, time and experience, we shall become expert in the intricate and complicated science of legislation; we shall be looked up to as models by other nations, instead of our servilely copying their institutions; we shall enjoy the singular³ advantage, hitherto unexampled, to reform our government insensibly and by degrees, without experiencing those violent concussions and catastrophes, which have desolated nations when they attempted a reform. Another precaution seems indispensibly necessary. Notwithstanding Mr. Wilson's assertion, that *every thing which is not given up by this fœderal constitution, is reserved to the body of the people*; that security is not sufficient to calm the inquietude of a whole nation. Let us then insert in the first page of this constitution, as a preamble to it, a declaration of our rights, or an enumeration of our prerogatives, as a sovereign people; that they may never hereafter be unknown, forgotten or contradicted by our representatives, our delegates, our servants in Congress: Let the recognition, and solemn ratification by Congress, of this declaration of rights, be made the *sine qua non* of the adoption of this new fœderal constitution, by each state. This precious, this comfortable page, will be the ensign, to which on any future contestation, time may induce between the governed and those intrusted with the powers of government, the asserters of liberty may rally, and constitutionally defend it.

The rights of the people should never be left subject to problematical discussion: They should be clear, precise and authenticated: They should never stand in need of the comments or explanations of lawyers or political writers, too apt, we know, to entangle the plainest rights in their net of sophistry: What man of upright intentions will dare to say, that free men giving up such extensive prerogatives to their rulers, as the new foederal constitution requires, should not at the same time put them in mind of the rights, which constitute them such? If there be any person who says, that implication, that forced construction should satisfy their doubts, ye imps of hell whip me such fiend!

I now most earnestly pray, that both the fautors and the opponents of the new foederal constitution, may deign to accept this compromise. If either party refuse to subscribe to it, let them be judged by their country, and if I mistake not, they will be found guilty of the treacherous views, and dark designs with which they are so ready to asperse their antagonists.

December 5, 1787.⁴

1. Broadside, Albert Gallatin Papers, NHi.

2. At this point the *Virginia Independent Chronicle* reprint added this clause: "the power of continuing the same."

3. The word "singular" was stricken out in ink and does not appear in the *Chronicle* reprint.

4. The *Chronicle* and *Gazetteer* reprints added "Richmond" to the dateline.

327. James Madison to George Washington New York, 7 December¹

My last inclosed a continuation of the *Foederalist* to number 14. inclusive. I now add the numbers which have succeeded.²

No authentic information has yet arrived concerning the posture of Europe. Reports, with some less doubtful symtoms, countenance the suspicions of war.

I understand that the Constitution will certainly be adopted in Connecticut; the returns of the deputies being now known, and a very great majority found to be its declared and firm friends. There will be more opposition in Massachusetts, but its friends there continue to be very sanguine of victory. N Hampshire, as far as I can learn, may be set down, on the right list.

1. RC, Gratz Collection, PHI.

2. On 30 November Madison sent Washington numbers 8 to 14 of *The Federalist*. Since that date, numbers 15 to 18 had been published.

328. George Washington to James Madison
Mount Vernon, 7 December (excerpts)¹

Since my last to you, I have been favored with your letters of the 28th. of Octr. & 18th. of Novr.²—With the last came 7 numbers of the Fœderalist under the signature of Publius.—For these I thank you.—They are forwarded to a Gentleman in Richmond for re-publication.³—The doing of which, in this State, will, I am persuaded, have a good effect; as there are certainly characters in it who are no friends to a general government—perhaps I might go further, & add, who would have no great objection to the introduction of anarchy & confusion.—

The sollicitude, to know what the several State Legislatures would do with the Constitution, is now transfere'd to the several Conventions thereof; the decisions of which being more interesting & conclusive, is consequently more anxiously expected than the other.—What Pennsylvania & Delaware have done, or will do, must soon be known:—Other Conventions⁴ are treading closely on their heels—but what the three Southern States have done, or in what light the New Constitution is viewed by them, I have not been able to learn.—North Carolina it is said (by some Accts. from Richmond) will be governed in a great measure by the conduct of Virga.—The pride of South Carolina will not, I conceive, suffer this influence to operate in her Councils; and the disturbances in Georgia will, or at least ought to shew the people of it, the propriety of a strict union, and the necessity there is for a general government.—

If these, with the States Eastward and Northward of us, should accede to the proposed plan, I think the Citizens of this State will have no cause to bless the opponents of it here, if they should carry their point.—

A Paragraph in the Baltimore Paper has announced a change in the Sentiments of Mr. Jay on this subject; and adds, that from being an admirer of it, he is become a bitter enemy.⁵—This relation, without knowing Mr. Jays opinion, I discredit, from a conviction that he would consider the matter well before he would pass Judgment,⁶ and having done so, would not change his opinion, *almost* in the same breath.—I am anxious however to know, on what ground this report originates, especially the indelicacy of ye expresn. . . .

PS. Since writing the foregoing, I have received a letter from a member of our Assembly at Richmond, dated the 4th. instt. giving the following information.⁷—

“I am sorry to inform you that the Constitution has lost ground so considerably that it is doubtful whether it has any longer a majority in its favor.—From a vote which took place the other day this would appear certain, tho' I cannot think it so decisive as the enemies to it consider

it.—It marks however the inconsistency of some of its opponants.—At the time the Resolutions calling a Convention were entered into Colo. M--n⁸ sided with the friends to the Constitution, and opposed any hint being given, expressive of the sentiments of the House as to amendments.—But as it was unfortunately omitted at that time to make provision for the subsistence of the Convention, it became necessary to pass some resolutions for that purpose; among these is one providing for any expence which may attend an attempt to make amendments.⁹—As M-- had on the former occasion declared that it would be improper to make any discovery of the sentiments of the House on the subject, and that we had no right to suggest any thing to a body paramount to us, his advocating such a resolution was matter of astonishment.—It is true he declared it was not declaratory of our opinion; but the contrary must be very obvious.—As I have heard many declare themselves friends to the Constitution since the vote, I do not consider it as altogether decisive of the opinion of the House with respect to it”

“In a debating society here, which meets once a week, this subject has been canvassed at two successive meetings, and is to be finally decided on tomorrow evening.—As the whole Assembly almost has attended on these occasions, their opinion will then be pretty well ascertained.¹⁰—And as the opinion on this occasion will have much influence, some of Colo. Innis’s friends have obtained a promise from him to enter ye lists

“I am informed both by Genl. Wilkinson (who is just arrived from New Orleans by way of No. Carolina) and Mr Ross, that North Carolina is almost unanimous for adopting it.—The latter received a letter from a member of that Assembly now sitting . . .”¹¹

The letter of which I enclose you a printed Copy—from Colo R H. Lee to the Govr. has been circulated with great industry in manuscript, four weeks before it went to press, and is said to have had a bad influence.¹²—The enemies to the Constitution leave no stone unturned to encrease the opposition to it—

1. RC, Special Collections, Signers of the Declaration of Independence, Amherst College. Printed: Rutland, *Madison*, X, 296-99.

2. See CC:271.

3. On 30 November Washington sent the first seven numbers of *The Federalist* to David Stuart in Richmond (CC:308). The first number was reprinted in the Richmond *Virginia Independent Chronicle* on 12 December.

4. At this point Washington’s letterbook copy reads: “to the Northward and Eastward of them.”

5. The *Maryland Journal* of 30 November had reprinted an item from the Philadelphia *Independent Gazetteer* which stated that John Jay had become an opponent of the Constitution. For this account and Jay’s disclaimer, see CC:290.

6. The remainder of the paragraph in Washington’s letterbook copy reads: “It is very unlikely therefore that a man of his knowledge and foresight should turn on both sides of

a question in so short a space. I am anxious however to know the foundation (if any) for this.”

7. Probably a reference to a letter from David Stuart, which has not been found but which was acknowledged by Washington in his letter to Stuart on 11 December.

8. George Mason.

9. On 25 October the Virginia House of Delegates proposed resolutions calling a state convention. Six days later the Senate agreed to the resolutions, but the resolutions did not provide for the payment of convention delegates. On 30 November the House resolved that a bill be brought in providing for the pay of convention delegates, the pay of delegates to attend a general convention (if one was called) to amend the Constitution, and the expenses in case the Virginia convention “should deem it proper to send a deputy or deputies to confer” with the conventions of other states. On 11 and 12 December the House and Senate, respectively, agreed to an act providing for the pay of convention delegates. The act, however, made no specific reference to a second general convention.

10. For two widely circulated reports of the Richmond Political Society’s consideration of the Constitution, see the *Pennsylvania Gazette*, 2 January 1788 and the *Philadelphia Independent Gazetteer*, 5 January (both in CC:Vol. 3, Appendix).

11. James Wilkinson (1757–1825) had been an advocate of Kentucky statehood for several years. He had just returned from New Orleans where he had obtained a monopoly from the Spanish on American trade through that Spanish-held port. David Ross (c. 1736–1817) was a Petersburg, Va., merchant who owned ships, plantations, and an iron mine. He had been appointed a Virginia delegate to the Annapolis Convention, but had not attended.

12. For Richard Henry Lee’s letter to Governor Edmund Randolph of 16 October, see CC:325.

329. *Massachusetts Gazette*, 7 December¹

The *disunited* states of America, at this all-important crisis, may be fitly compared to thirteen distinct, separate, independent, *unsupported* columns—discovering the noblest tracts of workmanship, and evidently calculated to sustain a *superb edifice*.—For want of *this structure*, the beholder is bewildered in contemplating their *origin*, design and use—He feels concerned for their exposed situation, and, extending his ideas, anticipates the defacing of their beauty by the rude blasts of the winds and the weather, and their rapid destruction from the ruthless attacks of *anarchy*, on the one hand, and of *despotism*, on the other.—In this distressing perplexity, the glorious frame of government for the UNITED States, proposed by the late Convention, presents itself to view—the columns appear with additional lustre—their use and design are fully understood; rising from their *solid* pedestals, they receive the heaven-descended *DOMÉ*, *supporting* and *supported* by the noble structure. Discord, Jealousy, and Misrule, retire!—*Peace*, *Liberty*, and *Safety*, enter!—*Justice*, *Honour*, and *Faith*, are its unfading ornaments!

While round the whole, encircling glories rise,
“Fame claps her wings, and sounds them to the skies.”

1. Reprints by 8 January 1788 (11): N.H. (3), N.Y. (2), N.J. (1), Pa. (2), Md. (2), Va. (1).

330. Publius: The Federalist 18 New York Packet, 7 December

Essays 18 to 20 were written by James Madison with the assistance of Alexander Hamilton. Some time before 1816 Madison made the following annotation in a copy of an 1810 edition of *The Federalist*: "A.H. had drawn up something on the subjects of this (No. 18) and the two next Nos. (19 & 20). On finding that J.M. was engaged in them with larger materials, and with a view to a more precise delineation, he put what he had written into the hands of J.M. It is possible, tho' not recollected that something in the draught may have been incorporated into the numbers as printed. But it was certainly not of a nature or amount to affect the impression left on the mind of J.M. from whose pen the papers went to the Press, that they were of the class written by him. As the historical materials of A.H. as far as they went, were doubtless similar, or the same with those provided by J.M. and as a like application of them probably occurred to both, an impression might be left on the mind of A.H. that the nos. in question were written jointly. These remarks are made, as well to account for a statement to that effect if made by A.H., as in justice to J.M, who always regarding them in a different light had so stated them to an enquiring friend long before it was known or supposed that a different impression existed anywhere. J.M." (See Rutland, *Madison*, X, 262-63, 304n.)

In 1818, in another copy of *The Federalist*, Madison wrote: "The subject of this and the two following numbers happened to be taken up by both Mr. H. and Mr. M. What had been prepared by Mr. H. who had entered more briefly into the subject, was left with Mr. M, on its appearing that the latter was engaged in it, with larger materials, & with a view to a more precise delineation; and from the pen of the latter the several papers went to the Press." (See Rutland, *Madison*, X, 262, 304n.)

Essay 18 also appeared in the *New York Daily Advertiser* on 7 and 8 December. It was reprinted in the *New York Independent Journal*, 8 December; the supplement to the Poughkeepsie *Country Journal*, 22 January 1788; and the *Pennsylvania Gazette*, 12 March.

For a general discussion of the authorship, circulation, and impact of *The Federalist*, see CC:201; and for discussions of the authorship of essays 18 to 20, see Syrett, IV, 377-78n, and Rutland, *Madison*, X, 304n.

The FŒDERALIST, No. 18. *To the People of the State of New-York.*

Among the confederacies of antiquity, the most considerable was that of the Grecian Republics associated under the Amphyctionic Council. From the best accounts transmitted of this celebrated institution, it bore a very instructive analogy to the present confederation of the American States.

The members retained the character of independent and sovereign States, and had equal votes in the fœderal council. This council had a general authority to propose and resolve whatever it judged necessary

for the common welfare of Greece—to declare and carry on war—to decide in the last resort all controversies between the members—to fine the aggressing party—to employ the whole force of the confederacy against the disobedient—to admit new members. The Amphyctions were the guardians of religion, and of the immense riches belonging to the Temple of Delphos, where they had the right of jurisdiction in controversies between the inhabitants and those who came to consult the oracle. As a further provision for the efficacy of the fœderal powers, they took an oath mutually to defend and protect the united cities, to punish the violaters of this oath, and to inflict vengeance on sacrilegious despoilers of the Temple.

In theory and upon paper, this apparatus of powers, seems amply sufficient for all general purposes. In several material instances, they exceed the powers enumerated in the articles of confederation. The Amphyctions had in their hands the superstition of the times, one of the principal engines by which government was then maintained; they had declared authority to use exertion against refractory cities, and were bound by oath to exert this authority on the necessary occasions.

Very different nevertheless was the experiment from the theory. The powers, like those of the present Congress, were administered by deputies appointed wholly by the cities in their political capacities; and exercised over them in the same capacities. Hence the weakness, the disorders, and finally the destruction of the confederacy. The more powerful members instead of being kept in awe and subordination, tyrannized successively over all the rest. Athens, as we learn from Demosthenes, was the arbiter of Greece 73 years. The Lacedemonians next governed it 29 years; at a subsequent period, after the battle of Leuctra, the Thebans had their turn of domination.

It happened but too often, according to Plutarch, that the deputies of the strongest cities, awed and corrupted those of the weaker, and that judgment went in favor of the most powerful party.

Even in the midst of defensive and dangerous wars with Persia and Macedon, the members never acted in concert, and were more or fewer of them, eternally the dupes, or the hirelings of the common enemy. The intervals of foreign war, were filled up by domestic vicissitudes, convulsions and carnage.

After the conclusion of the war with Xerxes, it appears that the Lacedemonians, required that a number of the cities should be turned out of the confederacy for the unfaithful part they had acted. The Athenians finding that the Lacedemonians would lose fewer partizans by such a measure than themselves; and would become masters of the public deliberations, vigorously opposed and defeated the attempt. This piece

of history proves at once the inefficiency of the union; the ambition and jealousy of its most powerful members, and the dependent and degraded condition of the rest. The smaller members, though entitled by the theory of their system, to revolve in equal pride and majesty around the common center, had become in fact, satellites of the orbs of primary magnitude.

Had the Greeks, says the Abbe Milot,¹ been as wise as they were courageous, they would have been admonished by experience of the necessity of a closer Union, and would have availed themselves of the peace which followed their success against the Persian arms, to establish such a reformation. Instead of this obvious policy, Athens and Sparta, inflated with the victories and the glory they had acquired, became first rivals and then enemies; and did each other infinitely more mischief, than they had suffered from Xerxes. Their mutual jealousies, fears, hatreds and injuries ended in the celebrated Peloponnesian war; which itself ended in the ruin and slavery of the Athenians, who had begun it.

As a weak government, when not at war, is ever agitated by internal dissensions; so these never fail to bring on fresh calamities from abroad. The Phocians having ploughed up some consecrated ground belonging to the temple of Apollo; the Amphyctionic Council, according to the superstition of the age, imposed a fine on the sacrilegious offenders. The Phocians being abetted by Athens and Sparta, refused to submit to the decree. The Thebans, with others of the cities, undertook to maintain the authority of the Amphyctions, and to avenge the violated God. The latter being the weaker party, invited the assistance of Philip of Macedonia, who had secretly fostered the contest. Philip gladly seized the opportunity of executing the designs he had long planned against the liberties of Greece. By his intrigues and bribes he won over to his interests the popular leaders of several cities; by their influence and votes, gained admission into the Amphyctionic council; and by his arts and his arms, made himself master of the confederacy.

Such were the consequences of the fallacious principle, on which this interesting establishment was founded. Had Greece, says a judicious observer on her fate, been united by a stricter confederation, and persevered in her Union, she would never have worn the chains of Macedonia; and might have proved a barrier to the vast projects of Rome.

The Achæan league, as it is called, was another society of Grecian republics, which supplies us with valuable instruction.

The Union here was far more intimate, and its organization much wiser, than in the preceding instance. It will accordingly appear, that though not exempt from a similar catastrophe, it by no means equally deserved it.

The cities composing this league, retained their municipal jurisdiction, appointed their own officers, and enjoyed a perfect equality. The Senate in which they were represented, had the sole and exclusive right of peace and war, of sending and receiving Ambassadors—of entering into treaties and alliances—of appointing a Chief Magistrate or Pretor, as he was called, who commanded their armies; and who with the advice and consent of ten of the Senators, not only administered the government in the recess of the Senate, but had a great share in its deliberations, when assembled. According to the primitive constitution, there were two Pretors associated in the administration; but on trial, a single one was preferred.

It appears that the cities had all the same laws and customs, the same weights and measures, and the same money. But how far this effect proceeded from the authority of the Fœderal Council, is left in uncertainty. It is said only, that the cities were in a manner compelled to receive the same laws and usages. When Lacedemon was brought into the league by Philopœmen, it was attended with an abolition of the institutions and laws of Lycurgus, and an adoption of those of the Achæans. The Amphyctionic confederacies of which she had been a member, left her in the full exercise of her government and her legislation. This circumstance alone proves a very material difference in the genius of the two systems.

It is much to be regretted that such imperfect monuments remain of this curious political fabric. Could its interior structure and regular operation be ascertained, it is probable that more light would be thrown by it on the science of fœderal government, than by any of the like experiments with which we are acquainted.

One important fact seems to be witnessed by all the historians who take notice of Achæan affairs. It is, that as well after the renovation of the league by Aretus, as before its dissolution by the arts of Macedon, there was infinitely more of moderation and justice in the administration of its government, and less of violence and sedition in the people, than were to be found in any of the cities exercising *singly* all the prerogatives of sovereignty. The Abbe Mably, in his observations on Greece, says that the popular government, which was so tempestuous elsewhere, caused no disorders in the members of the Achæan republic, *because it was there tempered by the general authority and laws of the confederacy.*²

We are not to conclude too hastily, however, that faction did not in a certain degree agitate the particular cities; much less, that a due subordination and harmony reigned in the general system. The contrary is sufficiently displayed in the vicisitudes and fate of the republic.

Whilst the Amphyctionic confederacy remained, that of the Achæans, which comprehended the less important cities only, made little figure on the theatre of Greece. When the former became a victim to Macedon, the latter was spared by the policy of Philip and Alexander. Under the successors of these Princes, however, a different policy prevailed. The arts of division were practised among the Achæans: Each city was seduced into a separate interest; the Union was dissolved. Some of the cities fell under the tyranny of Macedonian garrisons; others under that of usurpers springing out of their own confusions. Shame and oppression 'ere long awakened their love of liberty. A few cities re-united. Their example was followed by others, as opportunities were found of cutting off their tyrants. The league soon embraced almost the whole Peloponnesus. Macedon saw its progress; but was hindered by internal dissensions from stopping it. All Greece caught the enthusiasm, and seemed ready to unite in one confederacy; when the jealousy and envy in Sparta and Athens, of the rising glory of the Achæans, threw a fatal damp on the enterprize. The dread of the Macedonian power induced the league to court the alliance of the Kings of Egypt and Syria; who, as successors of Alexander, were rivals of the King of Macedon. This policy was defeated by Cleomenes, King of Sparta, who was led by his ambition to make an unprovoked attack on his neighbours the Achæans; and who as an enemy to Macedon, had interest enough with the Egyptian and Syrian Princes, to effect a breach of their engagements with the league. The Achæans were now reduced to the dilemma of submitting to Cleomenes, or of supplicating the aid of Macedon, its former oppressor. The latter expedient was adopted. The contest of the Greeks always afforded a pleasing opportunity to that powerful neighbour, of intermeddling in their affairs. A Macedonian army quickly appeared: Cleomenes was vanquished. The Achæans soon experienced, as often happens, that a victorious and powerful ally, is but another name for a master. All that their most abject compliances could obtain from him, was a toleration of the exercise of their laws. Philip, who was now on the throne of Macedon, soon provoked, by his tyrannies, fresh combinations among the Greeks. The Achæans, though weakened by internal dissensions, and by the revolt of Messene one of its members, being joined by the Etolians and Athenians, erected the standard of opposition. Finding themselves, though thus supported, unequal to the undertaking, they once more had recourse to the dangerous expedient of introducing the succour of foreign arms. The Romans to whom the invitation was made, eagerly embraced it. Philip was conquered: Macedon subdued. A new crisis ensued to the league. Dissensions broke out among its members. These the Romans fostered. Callicretes and

other popular leaders, became mercenary instruments for inveigling their countrymen. The more effectually to nourish discord and disorder, the Romans had, to the astonishment of those who confided in their sincerity, already proclaimed universal liberty^(a) throughout Greece. With the same insidious views, they now seduced the members from the league, by representing to their pride, the violation it committed on their sovereignty. By these arts, this Union, the last hope of Greece, the last hope of antient liberty, was torne into pieces; and such imbecility and distraction introduced, that the arms of Rome found little difficulty in compleating the ruin which their arts had commenced. The Achæans were cut to pieces; and Achaia loaded with chains, under which it is groaning at this hour.

I have thought it not superfluous to give the outlines of this important portion of history; both because it teaches more than one lesson; and because, as a supplement to the outlines of the Achæan constitution, it emphatically illustrates the tendency of fœderal bodies, rather to anarchy among the members, than to tyranny in the head.

(a) *This was but another name more specious for the independence of the members on the fœderal head.*

1. Abbé Millot, *Elements of Ancient History*. Translated from the French (2 vols., New York, [1797]), I, Book II, chapter IV, 183-84. This work, the first part of Millot's *Elements of General History*, was first published in 1772.

2. *Observations sur l'Histoire de la Grèce* in *Œuvres Complètes de l'Abbé de Mably* (19 vols., Toulouse and Nismes, 1793), V, Book IV, 207-9. Mably's history of Greece was first published in 1749.

331. From Roger Sherman New Haven, 8 December¹

Dear Sir

I am informed that you wish to know my opinion with respect to the new Constitution lately formed by the federal convention, and the Objections made against it.

I suppose it is the general opinion that the present Government of the United States is not Sufficient to give them Credit and respectability Abroad or Security at home. But little faith or confidence can be placed in a government that has only power to enter into engagements, but no power to fulfil them.

To form a just opinion of the new constitution it Should be considered, whether the powers to be thereby vested in the federal government are Sufficient, and only Such as are necessary to Secure the Common interests of the States; and whether the exercise of those powers is placed in Safe hands.-In every government there is a trust, which may be abused; but the greatest Security against abuse is, that the interest of those in whom the powers of government are vested is the

Same as that of the people they govern, and that they are dependent on the Suffrage of the people for their appointment to, and continuance in Office. this is a much greater Security than a declaration of rights, or restraining clauses upon paper.

The rights of the people under the new constitution will be Secured by a representation in proportion to their numbers in one branch of the legislature, and the rights of the particular State governments by their equal representation in the other branch.

The President, Vice President, and Senators, tho' chosen for fixed periods, are re-eligible as often as the electors Shall think proper, which will be a very great Security for their fidelity in Office, and will likewise give much greater Stability and energy to government than an exclusion by rotation.-The greatest possible Security that a people can have for their civil rights and liberties, is, that no laws can be made to bind them, nor any taxes be imposed upon them without their consent by representatives chosen by themselves. This was the great point contended for in our contest with Great Britain; and will not this be fully Secured to us under the new constitution?

Declarations of rights in England were charters granted by Princes, or Acts of Parliament made to limit the prerogatives of the crown, but not to abridge the powers of the Legislature.-These observations duly considered will obviate most of the objections that have been made against the constitution.-The powers vested in the federal government are only Such as respect the common interests of the Union, and are particularly defined, So that each State retains it's Sovereignty in what respects its own internal government, and a right to exercise every power of a Sovereign State not delegated to the united States. And tho' the general government in matters within its jurisdiction is paramount to the constitutions & laws of the particular States, yet all acts of the Congress not warranted by the constitution would be void. Nor could they be enforced contrary to the Sense of a majority of the States.-One excellency of the constitution is that when the government of the united States acts within its proper bounds it will be the interest of the legislatures of the particular States to Support it, but when it over leaps those bounds and interferes with the rights of the State governments it they will be ~~their interest~~ powerful enough to check it; but ~~the powers of each~~ distinction between their jurisdictions will be So obvious, that there will be no great danger of interference ~~or contention between the governments of the particular States & the United States.~~

The unanimity of the convention is a remarkable circumstance in favour of the constitution, that all the States present concurred in it, and all the members but three out of forty two Signed it, and Governor

Randolph, declared, that tho' he did not think fit to Sign it, he had no fixed determination to oppose it, nor have I heard that he has Since made any opposition to it.²

The other two Honorable Gentlemen whom I esteem for their patriotism and good Sense have published their objections,³ which deserve Some notice; and I think the foregoing observations on the principles of the Constitution must evince that their fears are groundless. The peoples right of election is doubly Secured, the legislatures of the particular States have right to regulate it. and if they Should fail to do it properly, it may be done by congress. and what possible motive can either have to injure the people in the exercise of that right.—the qualifications of the electors are to remain as fixed by the State constitutions. It is objected that the number of representatives will be too Small—but it is my opinion that it will be quite large enough if extended as far as the constitution will admit, the present number in both branches will consist of Ninety one members which is the Same number that the States have a right to elect under the confederation,⁴ and I have heard no complaint that the number is not Sufficient to give information, of the circumstances of the States and to transact the general affairs of the union; nor have any of the States thought fit to keep up the full representation that they are intitled to. ~~It may be Said, that the powers of the Congress are increased, its true~~ nor will the additional powers of congress make it necessary to increase the number of members they will have the additional powers of regulating commerce, establishing a uniform rule of naturalization, and laws on the Subject of bankruptcies, and to provide for the punishment of counterfeiting coins and Securities of the united States, and to prescribe a uniform mode of organizing, arming and training the Militia under the authority of the Several States, and to promote the progress of Science by Securing, to persons for a limited time the benefit of their writings & inventions. The other powers are the Same as Congress have under the articles of confederation with this difference, that they will have authority to carry into effect, what they have now a right to require to be done by the States.

It was thought necessary in order to carry into efect the laws of the union, and to preserve justice and harmony among the States, to extend the judicial powers of the confederacy, they cannot be extended beyond the enumerated cases, but may be limited by Congress, and doubtless will be restricted to Such cases of importance & magnitude as cannot Safely be trusted to the final decision of the courts of the particular States, the Supreme court may have a circuit through the States to make the trials as convenient, and as little expensive to the parties as may be; and the trial by jury will doubtless be allowed in Cases proper for that

mode of trial, nor will the people in general be at all affected by the judiciary of the United States, perhaps not one to an hundred of the citizens will ever have a cause that can come within its jurisdiction, for all causes between citizens of the Same States, except where they claim lands under grants of different States, must be finally decided by the courts of the State to which they belong.

The power of making war and raising and Supporting Armies is now vested in Congress, who are not restrained from keeping up armies in time of peace, but by the new constitution no appropriation of money for that purpose can be in force longer than two years, but the Security is that the power is in the legislature who are the representatives of the people and can have no motive to keep up armies unnecessarily.

In order to [have] a well regulated government, the legislature, Should be dependant on the people, and be vested with a plenitude of power, for all the purposes, for which it is instituted, to be exercised for the public good, as occasion may require, powers are dangerous only when trusted in officers not under the controul of the laws; but by the new constitution, Congress are vested with power to make all laws which Shall be necessary and proper for carrying into execution, all the powers vested in the government of the united States, or in any department or officer thereof

1. Dft, Sherman Collection, CtY. The letter has no addressee. Portions of this draft letter are found in Sherman's "A Citizen of New Haven," *Connecticut Courant*, 7 January (CC:421) and in an undated manuscript in Sherman's handwriting entitled "Observations on the New federal Constitution" (Mfm:Conn. 63).

2. For Edmund Randolph's reasons for not signing the Constitution, see CC:75 and 385.

3. For Elbridge Gerry's objections, see CC:227-A. For George Mason's objections, see CC:138 and 276.

4. See CC:192, note 2.

332. James Kent to Nathaniel Lawrence Poughkeepsie, 8 December¹

I have only a moment to do our Friendship the compliment of a Line- I have nothing to inform you from this Quarter that deserves much Attention-The Minds of our better Sort of People are engrossed & much animated by the great political question-As you appear by your last Letter not to have absolutely made up your Mind I am in hopes you will embark at last fervently with me in the federal faith-If you should not I shall think the same of your political Discernment & Virtue & probably with some little additional Diffidence of the Strength & Justice of my own Opinion-As yet Sir all I can read & reflect serves but to convince me of the high expediency of adopting the Government & that it is take it *all in all* about as good & perfect a System as the various Interests &

Prejudices & Opinions of this Continent will permit us to form—I recommend Publius to you as the best thing I have seen hitherto in print on the federal side²—I hope with my Knowledge of your Candor & firmness I may say it will silence some of the Difficulties which may have been presented to your Eye—I have also read Webster & with the most friendly Submission I think it *spirited & sensible* except a few Paragraphs wherein he undertakes to refute the Objections which have been raised & there he deserves the Epithets you have conferred on his publication³—I was the more disappointed & grieved at such a Refutation since I am fully persuaded as I observed before of the Goodness of his Cause & have so long since entertained I conceive much well grounded Respect for his discerning & independent Mind & his various & extensive erudition—excuse my Haste & Confusion & believe me to be with the highest Respect & Friendship—

1. RC, L.W. Smith Collection, Morristown National Historical Park, Morristown, N.J.

2. On 21 December Kent wrote Lawrence again: “You may praise who you please & I will presume to say that I think *Publius* is a most admirable writer & wields the sword of Party dispute with justness, energy, & inconceivable dexterity. The Author *must be* Hamilton who I think in Genius & political Research is not inferior to Gibbon, Hume or Montesquieu” (Typescript, DLC). For Kent’s role in the reprinting of “Publius’ ” *The Federalist* essays in the Poughkeepsie *Country Journal* at this time, see CC:201.

3. The reference is to Noah Webster’s pamphlet, *An Examination into the Leading Principles of the Federal Constitution*, . . . which was published in Philadelphia on 17 October under the pseudonym, “A Citizen of America” (CC:173 and Mfm:Pa. 142). In one part of the pamphlet, Webster gives specific answers to nine Antifederalist objections to the Constitution.

333. Publius: The Federalist 19 New York Independent Journal, 8 December

This essay was written by James Madison with the assistance of Alexander Hamilton. It was reprinted in the New York *Daily Advertiser*, 10 December; *New York Packet*, 11 December; the supplement to the Poughkeepsie *Country Journal*, 29 January 1788; and *Pennsylvania Gazette*, 19 March.

For a general discussion of the authorship, circulation, and impact of *The Federalist*, see CC:201. For the authorship of essays 18–20, see CC:330.

The FØDERALIST. No. XIX.

To the People of the State of New-York.

The examples of ancient confederacies, cited in my last paper, have not exhausted the source of experimental instruction on this subject. There are existing institutions, founded on a similar principle, which merit particular consideration. The first which presents itself is the Germanic Body.

In the early ages of Christianity Germany was occupied by seven distinct nations, who had no common chief. The Franks, one of the num-

ber, having conquered the Gauls, established the kingdom which has taken its name from them. In the ninth century, Charlemagne, its warlike monarch, carried his victorious arms in every direction; and Germany became a part of his vast dominions. On the dismemberment, which took place under his sons, this part was erected into a separate and independent empire. Charlemagne and his immediate descendants possessed the reality, as well as the ensigns and dignity of imperial power. But the principal vassals, whose fiefs had become hereditary, and who composed the national Diets which Charlemagne had not abolished, gradually threw off the yoke, and advanced to sovereign jurisdiction and independence. The force of imperial sovereignty was insufficient to restrain such powerful dependents; or to preserve the unity and tranquility of the empire. The most furious private wars, accompanied with every species of calamity, were carried on between the different Princes and States. The imperial authority, unable to maintain the public order, declined by degrees, till it was almost extinct in the anarchy, which agitated the long interval between the death of the last Emperor of the Sva-bian, and the accession of the first Emperor of the Austrian lines. In the eleventh century, the Emperors enjoyed full sovereignty: In the fifteenth they had little more than the symbols and decorations of power.

Out of this feudal system, which has itself many of the important features of a confederacy, has grown the federal system, which constitutes the Germanic empire. Its powers are vested in a Diet representing the component members of the confederacy; in the Emperor who is the executive magistrate, with a negative on the decrees of the Diet; and in the Imperial Chamber and Aulic Council, two judiciary tribunals having supreme jurisdiction in controversies which concern the empire, or which happen among its members.

The Diet possesses the general power of legislating for the empire—of making war and peace—contracting alliances—assessing quotas of troops and money—constructing fortresses—regulating coin—admitting new members, and subjecting disobedient members to the ban of the empire, by which the party is degraded from his sovereign rights, and his possessions forfeited. The members of the confederacy are expressly restricted from entering into compacts, prejudicial to the empire, from imposing tolls and duties on their mutual intercourse, without the consent of the Emperor and Diet; from altering the value of money; from doing injustice to one another; or from affording assistance or retreat to disturbers of the public peace. And the ban is denounced against such as shall violate any of these restrictions. The members of the Diet, as such, are subject in all cases to be judged by the Emperor and Diet, and in their private capacities, by the Aulic Council and Imperial Chamber.

The prerogatives of the Emperor are numerous. The most important of them are, his exclusive right to make propositions to the Diet—to negative its resolutions—to name ambassadors—to confer dignities and titles—to fill vacant electorates—to found universities—to grant privileges not injurious to the States of the empire—to receive and apply the public revenues—and generally to watch over the public safety. In certain cases, the electors form a council to him. In quality of Emperor he possesses no territory within the empire; nor receives any revenue for his support. But his revenue and dominions, in other qualities, constitute him one of the most powerful princes in Europe.

From such a parade of constitutional powers, in the representatives and head of this confederacy, the natural supposition would be, that it must form an exception to the general character which belongs to its kindred systems. Nothing would be farther from the reality. The fundamental principle, on which it rests, that the empire is a community of sovereigns; that the Diet is a representation of sovereigns; and that the laws are addressed to sovereigns; render the empire a nerveless body; incapable of regulating its own members; insecure against external dangers; and agitated with unceasing fermentations in its own bowels.

The history of Germany is a history of wars between the Emperor and the Princes and States; of wars among the Princes and States themselves; of the licentiousness of the strong, and the oppression of the weak; of foreign intrusions, and foreign intrigues; of requisitions of men and money, disregarded, or partially complied with; of attempts to enforce them, altogether abortive, or attended with slaughter and desolation, involving the innocent with the guilty; of general imbecility, confusion and misery.

In the sixteenth century, the Emperor with one part of the empire on his side, was seen engaged against the other Princes and States. In one of the conflicts, the Emperor himself was put to flight, and very near being made prisoner by the Elector of Saxony. The late King of Prussia was more than once pitted against his Imperial Sovereign; and commonly proved an overmatch for him. Controversies and wars among the members themselves have been so common, that the German annals are crowded with the bloody pages which describe them. Previous to the peace of Westphalia, Germany was desolated by a war of thirty years, in which the Emperor, with one half of the empire was on one side; and Sweden with the other half on the opposite side. Peace was at length negotiated and dictated by foreign powers; and the articles of it, to which foreign powers are parties, made a fundamental part of the Germanic constitution.

If the nation happens, on any emergency, to be more united by the necessity of self defence; its situation is still deplorable. Military preparations must be preceded by so many tedious discussions, arising from the jealousies, pride, separate views, and clashing pretensions, of sovereign bodies; that before the diet can settle the arrangements, the enemy are in the field; and before the fœderal troops are ready to take it, are retiring into winter quarters.

The small body of national troops which has been judged necessary in time of peace, is defectively kept up, badly paid, infected with local prejudices, and supported by irregular and disproportionate contributions to the treasury.

The impossibility of maintaining order, and dispensing justice among these sovereign subjects, produced the experiment of dividing the Empire into nine or ten circles or districts; of giving them an interior organization; and of charging them with the military execution of the laws against delinquent and contumacious members. This experiment has only served to demonstrate more fully, the radical vice of the constitution. Each circle is the miniature picture of the deformities of this political monster. They either fail to execute their commissions, or they do it with all the devastation and carnage of civil war. Sometimes whole circles are defaulters, and then they increase the mischief which they were instituted to remedy.

We may form some judgment of this scheme of military coercion, from a sample given by Thuanus.¹ In Donawerth, a free and imperial city, of the circle of Suabia, the Abbe de St. Croix enjoyed certain immunities which had been reserved to him. In the exercise of these, on some public occasion, outrages were committed on him, by the people of the city. The consequence was, that the city was put under the ban of the empire; and the Duke of Bavaria, though director of another circle, obtained an appointment to enforce it. He soon appeared before the city, with a corps of ten thousand troops and finding it a fit occasion, as he had secretly intended from the beginning, to revive an antiquated claim, on the pretext that his ancestors had suffered the place to be dismembered from his territory;^(a) he took possession of it, in his own name; disarmed and punished the inhabitants, and re-annexed the city to his domains.

It may be asked perhaps what has so long kept this disjointed machine from falling entirely to pieces? The answer is obvious. The weakness of most of the members, who are unwilling to expose themselves to the mercy of foreign powers; the weakness of most of the principal members, compared with the formidable powers all around them; the vast weight and influence which the Emperor derives from his separate and

hereditary dominions; and the interest he feels in preserving a system, with which his family pride is connected, and which constitutes him the first Prince in Europe; these causes support a feeble and precarious union; whilst the repellent quality, incident to the nature of sovereignty, and which time continually strengthens, prevents any reform whatever, founded on a proper consolidation. Nor is it to be imagined, if this obstacle could be surmounted, that the neighbouring powers would suffer a revolution to take place, which would give to the Empire the force and pre-eminence to which it is entitled. Foreign nations have long considered themselves as interested in the changes made by events in this constitution; and have, on various occasions, betrayed their policy of perpetuating its anarchy and weakness.

If more direct examples were wanting, Poland as a government over local sovereigns, might not improperly be taken notice of. Nor could any proof more striking, be given of the calamities flowing from such institutions. Equally unfit for self-government, and self defence, it has long been at the mercy of its powerful neighbours; who have lately had the mercy to disburden it of one third of its people and territories.

The connection among the Swiss Cantons scarcely amounts to a confederacy: Though it is sometimes cited as an instance of the stability of such institutions.

They have no common treasury—no common troops even in war—no common coin—no common judicatory, nor any other common mark of sovereignty.

They are kept together by the peculiarity of their topographical position, by their individual weakness and insignificance; by the fear of powerful neighbours, to one of which they were formerly subject; by the few sources of contention among a people of such simple and homogeneous manners; by their joint interest in their dependent possessions; by the mutual aid they stand in need of, for suppressing insurrections and rebellions; an aid expressly stipulated, and often required and afforded; and by the necessity of some regular and permanent provision for accommodating disputes among the Cantons. The provision is, that the parties at variance shall each choose four judges out of the neutral Cantons, who in case of disagreement, chuse an umpire. This tribunal, under an oath of impartiality, pronounces definitive sentence: which all the Cantons are bound to enforce. The competency of this regulation may be estimated, by a clause in their treaty of 1683, with Victor Amadæus of Savoy; in which he obliges himself to enterpose as mediator in disputes between the Cantons; and to employ force, if necessary, against the contumacious party.

So far as the peculiarity of their case will admit of comparison with that of the United States, it serves to confirm the principle intended to be established. Whatever efficacy the Union may have had in ordinary cases, it appears that the moment a cause of difference sprang up, capable of trying its strength, it failed. The controversies on the subject of religion, which in three instances have kindled violent and bloody contests, may be said in fact to have severed the league. The Protestant and Catholic Cantons have since had their separate diets; where all the most important concerns are adjusted, and which have left the general diet little other business than to take care of the common bailages.

That separation had another consequence which merits attention. It produced opposite alliances with foreign powers; of Berne at the head of the Protestant association, with the United Provinces; and of Luzerne, at the head of the Catholic association, with France.

(a) *Pfeffel, Nouvel abreg. chronol. de l'hist. &c. d'Allemagne, says the pretext was to indemnify himself for the expence of the expedition.*²

1. Thuanus was Jacques Auguste de Thou. The passage referred to is from *Histoire Universelle de Jacque-Auguste de Thou, depuis 1543. jusqu'en 1607. Traduite sur l'Editon Latine de Londres* (16 vols., Londres [i.e., Paris], 1734), XIV, 640-42. The *Histoire Universelle* was first published between 1604 and 1620, three years after Thou's death in 1617. The Latin edition of London was printed in 1733.

2. Christian Friedrich Pfeffel von Kriegelstein, *Nouvel Abrégé Chronologique de l'Histoire et du Droit Public d'Allemagne* (2 vols., Paris, 1776), II, 235. Pfeffel's work was first published in 1754.

334. James Madison to Thomas Jefferson New York, 9 December (excerpts)¹

. . . The Constitution proposed by the late Convention engrosses almost the whole political attention of America. All the Legislatures, except that of R. Island, which have been assembled, have agreed in submitting it to State Conventions. Virginia has set the example of opening a door for amendments, if the Convention there should chuse to propose them.² Maryland has copied it. The States which preceded, referred the Constitution as recommended by the Genl. Convention, to be ratified or rejected as it stands.³ The Convention of Pennsylvania, is now sitting. There are about 44 or 45. on the affirmative and about half that number on the opposite side; A considerable number of the Constitutional party as it was called, having joined the other party in espousing the federal Constitution. The returns of deputies for the Convention of Connecticut are known, and prove, as is said by those who know the men that a very great majority will adopt it in that State. The event in Massachusetts lies in greater uncertainty. The friends of the

New Govt. continue to be sanguine. N. Hampshire from every account, as well as from some general inducements felt there will pretty certainly be on the affirmative side. So will new Jersey and Delaware. N. York is much divided. She will hardly dissent from N. England, particularly if the conduct of the latter should coincide with that of N. Jersey and Pennsylv. A more formidable opposition is likely to be made in Maryland than was at first conjectured. Mr. Mercer,⁴ it seems, who was a member of the Convention, though his attendance was but for a short time, is become an auxiliary to Chace. Johnson the Carrolls, Govr. Lee,⁵ and most of the other characters of weight are on the other side. Mr. T. Stone, died a little before the Governmt. was promulged. The body of the people in Virginia. particularly in the upper and lower Country, and in the Northern neck, are as far as I can gather, much disposed to adopt the new Constitution. The middle Country, and the South side of James River are principally in the opposition to it. As yet a large majority of the people are under the first description. As yet also are a majority of the Assembly. What change may be produced by the united influence & exertions of Mr. Henry, Mr. Mason, & the Governor⁶ with some pretty able auxiliaries, is uncertain. My information leads me to suppose there must be three parties in Virginia. The first for adopting without attempting amendments. This includes Genl. W- and ye. other deputies who signed the Constitution, Mr. Pendleton-(Mr. Marshal I believe)-Mr. Nicholas-Mr. Corbin, Mr. Zachy. Johnson, Col. Innis, (Mr. B. Randolph as I understand) Mr. Harvey Mr. Gabl. Jones, Docr. Jones-&c &c.⁷ At the head of the 2d. party which urges amendments are the Govr. & Mr. Mason. These do not object to the substance of the Governmt. but contend for a few additional Guards in favor of the Rights of the States and of the people. I am not able to enumerate the characters which fall in with their ideas, as distinguished from those of a third class, at the head of which is Mr. Henry. This class concurs at present with the patrons of Amendments, but will probably contend for such as strike at the essence of the System, and must lead to an adherence to the principle of the existing Confederation, which most thinking men are convinced is a visionary one, or to a partition of the Union into several Confederacies. Mr. Harrison the late Govr. is with Mr. Henry. So are a number of others. The General & Admiralty Courts with most of the Bar, oppose the Constitution, but on what particular grounds I am unable to say. Genl. Nelson, Mr. Jno. Page, Col. Bland,⁸ &c. are also opponents, but on what principle and to what extent, I am equally at a loss to say. In general I must note, that I speak with respect to many of these names, from information that may not be accurate, and merely as I should do in a free and confidential

conversation with you. I have not yet heard Mr. Wythe's sentiments on the subject. Doctr. McClurg the other absent deputy, is a very strenuous defender of the New Government. Mr. Henry is the great adversary who will render the event precarious. He is I find with his usual address, working up every possible interest, into a spirit of opposition. It is worthy of remark that whilst in Virga. and some of the other States in the middle & Southern Districts of the Union, the men of intelligence, patriotism, property, and independent circumstances, are thus divided; all of this description, with a few exceptions, in the Eastern States, & most of the Middle States, are zealously attached to the proposed Constitution. In N. England, the men of letters, the principal officers of Govt. the Judges & Lawyers, the Clergy, and men of property, furnish only here and there an adversary. It is not less worthy of remark that in Virginia where the mass of the people have been so much accustomed to be guided by their rulers on all new and intricate questions, they should on the present which certainly surpasses the judgment of the greater part of them, not only go before, but contrary to, their most popular leaders. And the phenomenon is the more wonderful, as a popular ground is taken by all the adversaries to the new Constitution. Perhaps the solution in both these cases, would not be very difficult, but it would lead to observations too diffusive; and to you unnecessary. I will barely observe that the case in Virga. seems to prove that the body of sober & steady people, even of the lower order, are tired of the vicitudes, injustice and follies which have so much characterised public measures, and are impatient for some change which promises stability & repose. . . .

We have no certain information from the three Southern States concerning the temper relative to the New Government. It is in general favorable according to the vague accounts we have. Opposition however will be made in each. Mr. Wiley Jones⁹ and Governour Caswell have been named as Opponents in N. Carolina.

So few particulars have come to hand concerning the State of things in Georgia that I have nothing to add on that subject, to the contents of my last, by Commodore Jones.¹⁰

We have two or three States only yet met for Congs. As many more can be called in when their attendance will make a quorum. It continues to be problematical, whether the interregnum will not be spun out through the winter.

We remain in great uncertainty here with regard to a war in Europe. Reports and suspicions are strongly on the side of one. Such an event may be considered in various relations to this Country. It is pretty cer-

tain I think that if the present lax State of our General Government should continue, we shall not only lose certain capital advantages which might be drawn from it; but be in danger of being plunged into difficulties which may have a very serious effect on our future fortunes. . . .

1. RC (unsigned), Madison Papers, DLC. Printed: Rutland, *Madison*, X, 310-15; Boyd, XII, 408-13.

2. See CC:328, note 9.

3. Madison probably confused Maryland for Georgia. On 26 October, the Georgia Assembly called a state convention that was "to reject or adopt any part or the whole" of the Constitution. The Georgia resolutions were printed in the *Georgia State Gazette* on 27 October and reprinted in the *New York Journal* and *New York Daily Advertiser* on 7 December.

4. John Francis Mercer (1759-1821) moved from Virginia to Maryland in 1785. He was a Maryland delegate to the Constitutional Convention, but opposed the proceedings and left early. In April 1788 he represented Anne Arundel County in the Maryland Convention, where he voted against the ratification of the Constitution.

5. Thomas Sim Lee (1745-1819), a Frederick County planter, was Maryland's second governor, 1779 to 1782. He voted to ratify the Constitution in the Maryland Convention.

6. Edmund Randolph.

7. George Nicholas (1754?-1799), a Charlottesville lawyer-planter; Francis Corbin (1759-1821), a Middlesex County lawyer-planter; Zachariah Johnston (1742-1800), an Augusta County farmer; Gabriel Jones (1724-1806), a Rockingham County lawyer-planter; and Walter Jones (1745-1815), a Northumberland County physician-planter, all voted to ratify the Constitution in the Virginia Convention in June 1788. Beverley Randolph (1754-1797), a Cumberland County planter, was president of the Virginia Council of State. He served as acting governor when his cousin Edmund Randolph was ill or out of the state, and he succeeded him as governor in November 1788. John Harvie (1742-1807), a lawyer-planter, was mayor of Richmond, 1785 to 1786, and secretary of the commonwealth in 1788.

8. John Page (1744-1808), a planter, represented Gloucester County in the Virginia House of Delegates from 1785 to 1788. Theodorick Bland (1742-1790), a planter and member of the House of Delegates from 1786 to 1788, represented Prince George County in the Virginia Convention, where he voted against ratification of the Constitution.

9. Willie Jones (1741-1801), a Halifax planter and businessman, was one of the democratic leaders in North Carolina. He had been selected as a delegate to the Constitutional Convention, but resigned his commission before it convened. He led the opposition to ratification of the Constitution in the North Carolina Convention in July and August 1788.

10. See Madison to Jefferson, 24 October, CC:187.

335. Landholder VI

Connecticut Courant, 10 December

"Landholder" VI was a response to George Mason's objections to the Constitution (CC:276) which the *Connecticut Courant* had reprinted on 26 November. "Landholder" VI was also published in the *Hartford American Mercury*, with minor variations, on 10 December, immediately following the *Mercury's* reprinting of Mason's objections. By 11 February 1788 "Landholder" VI was reprinted, in

whole or in part, twenty-one times: N.H. (2), Mass. (5), R.I. (2), Conn. (3), N.Y. (4), Pa. (2), Md. (1), Va. (1), S.C. (1). The *Massachusetts Centinel*, 19 December, and the *New Hampshire Spy*, 25 December, prefaced their reprints: "We have published Col. MASON's objections to the Federal Constitution—common justice, therefore, requires that we should also insert the following pertinent *critique* on them." The *Pennsylvania Journal*, 22 December, the *Pennsylvania Gazette*, 26 December, and the *New York Morning Post*, 3 January 1788, included this preface: "Mr. MASON's objections against the Constitution of the United States having been much relied on and quoted by the enemies of that Constitution, and no one having published any thing in answer to it, if nothing better offers, your inserting the following, taken from the Connecticut Courant, will oblige . . . NASH."

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

To the Landholders and Farmers.

*He that is first in his own cause seemeth just; but his neighbour cometh and searcheth him.*¹

The publication of Col. Mason's reasons for not signing the new Constitution, has extorted some truths that would otherwise in all probability have remained unknown to us all. His reasons, like Mr. Gerrys, are most of them *ex post facto*—have been revised in New-Y--k by R. H. L. and by him brought into their present artful and insidious form. The factious spirit of R. H. L.—his implacable hatred to General Washington—his well known intrigues against him in the late war—his attempt to displace him and give the command of the American army to General Lee, is so recent in your minds it is not necessary to repeat them. He is supposed to be the author of most of the scurrility poured out in the New-York papers against the new constitution.²

Just at the close of the Convention, whose proceedings in general were zealously supported by Mr. Mason, he moved for a clause that no navigation-act should ever be passed but with the consent of two thirds of both branches; urging that a navigation-act might otherwise be passed excluding foreign bottoms from carrying American produce to market, and throw a monopoly of the carrying business into the hands of the Eastern States who attend to navigation, and that such an exclusion of foreigners would raise the freight of the produce of the southern states, and for these reasons Mr. Mason would have it in the power of the southern states to prevent any navigation-act. This clause, as unequal and partial in the extreme to the southern states, was rejected;³ because it ought to be left on the same footing with other national concerns, and because no state would have a right to complain of a navigation-act which should leave the carrying business equally open to them all. Those who preferred cultivating their lands would do so; those who chose to navigate and become carriers would do that. The loss of this question determined Mr. Mason against the signing the doings of the convention, and is undoubtedly among his reasons as drawn for the southern

states; but for the eastern states this reason would not do.⁴ It would convince us that Mr. Mason preferred the subjects of every foreign power to the subjects of the United States who live in New-England; even the British who lately ravaged Virginia, that Virginia, my countrymen, where your relations lavished their blood—where your sons laid down their lives to secure to her and us the freedom and independence in which we now rejoice, and which can only be continued to us by a firm, equal and effective union—But do not believe that the people of Virginia are all thus selfish: No, there is a Washington, a Blair, a Maddison and a Lee, (not R. H. L.)⁵ and I am persuaded there is a majority of liberal, just and fœderal men in Virginia, who whatever their sentiments may be of the new constitution, will despise the artful injustice contained in Col. Mason's reasons as published in the Connecticut papers.⁶

The President of the United States has no council, &c. says Col. Mason. His proposed council would have been expensive—they must constantly attend the president, because the president constantly acts. This council must have been composed of great characters, who could not be kept attending without great salaries, and if their opinions were binding on the president his responsibility would be destroyed—if divided, prevent vigour and dispatch; if not binding, they would be no security. The states who have had such councils have found them useless, and complain of them as a dead weight. In others, as in England, the supreme executive advises when and with whom he pleases; if any information is wanted, the heads of the departments who are always at hand can best give it, and from the manner of their appointment will be trust worthy. Secrecy, vigor, dispatch and responsibility, require that the supreme executive should be one person, and unfettered, otherwise than by the laws he is to execute.

There is no Declaration of Rights. Bills of Rights were introduced in England when its kings claimed all power and jurisdiction, and were considered by them as grants *to the people*. They are insignificant since government is considered as originating from the people, and all the power government now has is a grant *from the people*: the constitution they establish with powers limited and defined, becomes now to the legislator and magistrate, what originally a bill of rights was to the people. To have inserted in this constitution a bill of rights for the states, would suppose them to derive and hold their rights from the fœderal government, when the reverse is the case.

There is to be no ex post facto laws. This was moved by Mr. Gerry and supported by Mr. Mason, and is exceptionable only as being unnecessary; for it ought not to be presumed that government will be so tyran-

nical, and opposed to the sense of all modern civillians as to pass such laws, if they should they would be void.⁷

The general legislature is restrained from prohibiting the further importation of slaves for twenty odd years—But every state legislature may restrain its own subjects; but if they should not, shall we refuse to confederate with them? their consciences are there own, tho' their wealth and strength are blended with ours. Mr. Mason has himself about three hundred slaves, and lives in Virginia, where it is found by prudent management they can breed and raise slaves faster than they want them for their own use, and could supply the deficiency in Georgia and South-Carolina; and perhaps Col. Mason may suppose it more humane to breed than import slaves—those imported having been bred and born free, may not so tamely bear slavery as those born slaves, and from their infancy inured to it; but his objections are not on the side of freedom, nor in compassion to the human race who are slaves, but that *such importation render the United States weaker, more vulnerable, and less capable of defence.*⁸ To this I readily agree, and all good men wish the entire abolition of slavery, as soon as it can take place with safety to the public, and for the lasting good of the present wretched race of slaves. The only possible step that could be taken towards it by the convention was to fix a period after which they should not be imported.

There is no declaration of any kind to preserve the liberty of the press, &c. Nor is liberty of conscience, or of matrimony, or of burial of the dead; it is enough that congress have no power to prohibit either, and can have no temptation. This objection is answered in that the states have all the power originally, and congress have only what the states grant them.

The judiciary of the United States is so constructed and extended as to absorb and destroy the judiciaries of the several states; thereby rendering law as tedious, intricate and expensive, and justice as unattainable by a great part of the community, as in England; and enable the rich to oppress and ruin the poor. It extends only to objects and cases specified, and wherein the national peace or rights, or the harmony of the states are concerned, and not to controversies between citizens of the same state (except where they claim under grants of different states) and nothing hinders but the supreme foederal court may be held in different districts, or in all the states, and that all the cases, except the few in which it has original and not appellate jurisdiction, may in the first instance be had in the state courts and those trials be final except in cases of great magnitude; and the trials be by jury also in most or all the causes which were wont to be tried by them, as congress shall provide, whose appointment is security enough for their attention to the wishes and convenience of the people. In chancery courts juries are never used, nor are they proper in admiralty courts,

which proceed not by municipal laws, which they may be supposed to understand, but by the civil law and law of nations.

Mr. Mason deems the president and senate's power to make treaties dangerous, because they become laws of the land. If the president and his proposed council had this power, or the president alone, as in England and other nations is the case would the danger be less? or is the representative branch suited to the making of treaties which are often intricate, and require much negotiation and secrecy? The senate is objected to as having too much power, and bold unfounded assertions that they will destroy any balance in the government, and accomplish what usurpation they please upon the rights and liberties of the people; to which it may be answered they are elective and rotative, to the mass of the people; the populace can as well balance the senatorial branch there as in the states, and much better than in England, where the lords are hereditary, and yet the commons preserve their weight; but the state governments on which the constitution is built will forever be security enough to the people against aristocratic usurpations:—The danger of the constitution is not aristocracy or monarchy, but anarchy.

I intreat you, my fellow citizens, to read and examine the new constitution with candor; examine it for yourselves, you are most of you as learned as the objector, and certainly as able to judge of its virtues or vices as he is. To make the objections the more plausible, they are called *The Objections of the Hon. George Mason, &c.*—They may possibly be his, but be assured they were not those made in convention,⁹ and being directly against what he there supported in one instance, ought to caution you against giving any credit to the rest; his violent opposition to the powers given congress to regulate trade, was an open decided preference of all the world to you. A man governed by such narrow views and local prejudices, can never be trusted; and his pompous declarations in the House of Delegates in Virginia that no man was more foederal than himself, amounts to no more than this, “Make a foederal government that will secure Virginia all her natural advantages, promote all her interests regardless of every disadvantage to the other states, and I will subscribe to it.”¹⁰

It may be asked how I came by my information respecting Col. Mason's conduct in Convention, as the doors were shut? To this I answer, no delegate of the late convention will contradict my assertions, as I have repeatedly heard them made by others in presence of several of them, who could not deny their truth. Whether the constitution in question will be adopted by the United States in our day is uncertain; but it is neither aristocracy or monarchy can grow out of it, so long as the present descent of landed estates last, and the mass of the people

have as at present, a tolerable education; and were it ever so perfect a scheme of freedom, when we become ignorant, vicious, idle, and regardless of the education of our children, our liberties will be lost—we shall be fitted for slavery, and it will be an easy business to reduce us to obey one or more tyrants.

1. Proverbs 18:17.

2. There is no evidence that Richard Henry Lee had been involved in an attempt to replace Washington with Charles Lee. "Landholder's" charge was repeated by "New England," *Connecticut Courant*, 24 December (CC:372; RCS:Conn., 507-12).

3. On 29 August Mason and South Carolinian Charles Pinckney spoke in support of a two-thirds majority of Congress to pass commercial regulations (Farrand, II, 449-53). On 15 September Mason reiterated "his discontent at the power given to Congress by a bare majority to pass navigation acts, which he said would not only enhance the freight, a consequence he did not so much regard—but would enable a few rich merchants in Philadelphia N. York & Boston, to monopolize the Staples of the Southern States & reduce their value perhaps 50 Per Ct." Mason then moved that a two-thirds majority of both houses be required to pass any "navigation acts" prior to 1808. The motion was defeated 7 states to 3 (*ibid.*, 631).

The "Landholder," who was Oliver Ellsworth, was well informed about these events in the Convention, even though he was not present. He had left Philadelphia after 23 August, to go on court circuit in Connecticut. Roger Sherman, Ellsworth's colleague on circuit beginning in late September, was present in the Convention until it adjourned.

4. Mason's opposition to allowing a simple majority of Congress to pass commercial regulations was not printed in the Northern version of his "Objections," but was included in the Southern version. The omitted objection became available in the North by mid-December (CC:276). On 24 December "Landholder" VIII criticized Mason for printing "two setts of reasons for his dissent to the constitution" (CC:371).

5. George Washington, John Blair, and James Madison had signed the Constitution for Virginia. Madison and Henry Lee were two of Virginia's delegates to Congress.

6. In addition to the *Connecticut Courant* and *American Mercury*, the objections were reprinted in the *Connecticut Journal*, 28 November, and the *Middletown Middlesex Gazette*, 3 December.

7. On 14 September Mason moved that the Convention reconsider the Constitution's prohibition against ex post facto laws because it was "not sufficiently clear" that the prohibition was limited to criminal cases. He believed that "no Legislature ever did or can altogether avoid them in Civil cases." Gerry seconded the motion because he wanted "to extend the prohibition to 'Civil cases'" (Farrand, II, 617).

8. On 22 August Mason spoke in the Convention in favor of allowing the central government to prohibit the importation of slaves. Ellsworth opposed him and urged "Let us not intermeddle." He believed that, with the increase in the number of poor laborers, slaves would be rendered "useless. Slavery in time will not be a speck in our Country." He also implied that Mason, a slaveholder himself, was motivated by self-interest (Farrand, II, 370-71).

9. At one time or another, Mason had raised almost all of his published objections in the Convention.

10. On 25 October, during a debate in the Virginia House of Delegates on whether or not to call a state convention, Mason stated "that no man was more completely federal in his principles than he was: That from the east of New-Hampshire to the south of Georgia, there was not a man more fully convinced of the necessity of establishing some general government" (Petersburg *Virginia Gazette*, 1 November). This account was

reprinted seventeen times by 30 November: N.H. (1), Mass. (2), R.I. (1), Conn. (3), N.Y. (2), Pa. (2), Md. (2), Va. (2), N.C. (1), S.C. (1).

336. Thomas Johnson to George Washington
Annapolis, 11 December (excerpt)¹

... The Leven of your State is working in ours—the Scale of power which I always suspected would be the most difficult to settle between the great and small States, as such, was in my Opinion very properly adjusted any necessary Guards for personal Liberty is the common Interest of all the Citizens of America and if it is imagined that a defined power which does not comprehend the Interference with personal Rights needs negative Declarations I presume such may be added by the foederal Legislature with equal Efficacy & more propriety than might have been done by the Convention—Strongly and long impressed with an Idea that no Governmt. can make a people happy unless they very generally entertain an Opinion that it is good in Form and well administred I am much disposed to give up a good deal in the form the least essensial part But those who are clamorous seem to me to be really more afraid of being restrained from doing what they ought not to do and being compelled to do what they ought to do than of being obliged to do what there is no moral Obligation on them to do—I believe there is no American of Observation Reflection and Candour but will acknowledge Men unhappily need more Government than he imagined—I flatter myself that the plan recommended will be adopted in twelve of the thirteen States without Conditions sine qua non—but let the Event be as it may I shall think myself with America in general greatly indebted to the Convention and possibly we may confess it when it may be too late to avail ourselves of their Moderation & Wisdom—You will pardon me my good Sir the Effusions which I cannot restrain when on this Subject

1. RC, Washington Papers, DLC. Johnson and Washington worked together through the Potowmack Company for the improvement of the navigation of the Potomac River.

337. Henry Knox to George Washington
New York, 11 December (excerpt)¹

I thank you for your kind favor of the 15th October which was duly received—²

Notwithstanding the opposition and writings of the enemies of the new constitution it is now pretty apparent that it will be received by considerable majorities in New Hampshire, Massachusetts Connecticut New Jersey, Pennsylvania and Delaware.

The information from Maryland is defective, but Virginia it is said will powerfully oppose it. North Carolina will be materially influenced by the conduct of Virginia In south Carolina and Georgia it is presumed that it will be adopted-

Respecting this state it is difficult to determine with any precision. The City, and the enlightned and independent men of the Country are generally for it-The warm friends of the new constitution say that the majority of the people are in its favor while its adversaries assert roundly that the majority is with them. The paper money people both in this State and Rhode Island are against it-

But as a War between France and England seems inevitable, and a general War in Europe probable, the result may be highly beneficial to this Country-1st By preventing the European intrigues against our being a respectable nation, which would most probably be the case were their agents instructed by their courts on the subject-The war will find them other employment-2dly The War will impress on the fears of the people of the United States the necessity of a general government to defend them against the insults and invasions of the Europeans Feeble as the powers of the federal government are in this moment, it would be difficult, if not impracticable to prevent our own people from improperly interfer[in]g in the dispute by taking one side or the other-Reprisals would be made on our commerce, and a war ensue, without a hope of success on our side This subject being forcibly impressed on the public mind will have its full effect unless we are devoted to destruction. . . .

1. RC, Washington Papers, DLC.
2. See CC:160.

338. George Lee Turberville to James Madison Richmond, 11 December¹

Will you excuse an abrupt tresspass upon your leizure-which has its rise from a desire to promote the welfare of Virginia & the Union a cause that has so long been the object of your pursuits-& that has already received so many beneficial supports from your attention-& still expects to receive so much future aid-from your Counsel-Assiduity & patriotism-?

Tis not sir to draw from you-your opinions-but merely to be informed of some parts of the Plan of Government proposed by the convention at Philadelphia-which appear obscure to a Reader that I have ventured to interrupt you, seeing that it is impossible to receive any information in the circle here-but what manifestly bears ye Stamp of faction-rancour-or intemperance-

Upon a question of Such importance—(on which perhaps it may be my lot to have a Vote) you will therefore excuse me for endeavoring to understand the subject as well as possible to the end that I may be enabled to form coolly & deliberately—such an opinion of it as my best abilities—aided by extreme attention—& all the information I can obtain—will admit—without further apology therefore I will proceed to mention such parts of the plan as appear obscure to me—always premising that it is not my wish to draw from you your own opinions, but only the reasonings thereon—& the objects thereof that weighed with the convention—

The principal objection that the opponents bring forward against this Constitution, is the total want of a Bill of Rights—this they build upon as an essential—and altho' I am satisfied that an enumeration of those priviledges which we retained—wou'd have left floating in uncertainty a number of non enumerated contingent powers and priviledges—either in the powers granted or in those retained—thereby indisputably trenching upon the powers of the states—& of the Citizens—insomuch as those not specially retained might by just implication have been consider'd as surrender'd—still it wou'd very much assist me in my determination upon this subject if the sense of the Convention and their opinion upon it cou'd be open'd to me—

Another objection (and that I profess appears very weighty with me) is the want of a Council of State to assist the President—to detail to you the various reasons that lead to this opinion is useless. You have seen them in all the publications almost that pretend to analyse this system—most particularly in Colo. Masons² We have heard from *private persons* that a system of government was engrossed—which had an Executive council—and that the priviledge of importing slaves (another great evil) was not mention'd in it—but that a Coalition took place between the members of the small states—& those of the southern states—& they barter'd the Council for the Priviledge—and the present plan thus defective—owes it origin to this Junction—if this was the case it takes greatly off from the confidence that I ever conceived to be due to this Convention—such conduct wou'd appear rather like the attempt of a party to carry an interested measure in a state legislature than the production of the United Wisdom—Virtue—& Uprightness of America called together to deliberate upon a form of Government that will affect themselves & their latest Posterity.—

The operation of the Judiciary is a matter so far beyond the reach of most of our fellow Citizens that we are bounden to receive—& not to originate our opinions upon this branch of ye Federal government—Lawyers alone conceive themselves masters of this subject & they hold

it forth to us *danger & distress* as the inevitable result of the new system—& that this will proceed from the immense power of the general Judiciary—which will pervade the states from one extremity to the other & will finally absorb—& destroy the state Courts—But to me their power seem's very fairly defined by the clauses that constitute them—& the mention of Juries, in criminal cases—seeming therefor by implication in civil cases—not to be allowed, is the only objection *I* have to this Branch—

Why shou'd the United states in Congress Assembled be enabled to fix on the places of choosing the Representatives?

Why shou'd the Laws of the Union operate agt. & supercede—the state Constitutions?

Wou'd not an uniform duty—impost—or excise of £5. pr. hhd on Tobo. exported—throughout the United states—operate upon the Tobo. states alone? & have not the U. S. the power of levying this impost?

Why shou'd the states be prevented from raising a Revenue by Duties or Taxes—on their own Exports? Are the states not bound down to direct Taxation for the support of their police & government?

Why was not that truly republican mode of forcing the Rulers or sovereigns of the states to mix after stated Periods with the people again—observed—as is the case with the present members of Congress—Governors of this state &c &c—?

For what Reason—or to answer what republican Veiv is it, that the way is left open for the importation of Negro slaves for twenty one Yrs?

May not the powers of the Congress from the clause which enables them to pass all Laws necessary to carry this system into effect—& that clause also which declares their Laws to be paramount to the Constitutions of the states—be so operated upon as to annihilate the state Governments?

If the Laws of the United states are to be superior to the Laws & Constitutions of the several states, why was not a Bill of Rights affixed to this Constitution by which the Liberties of individuals might have been secured against the abuse of Fœderal Power?

If Treaties are to be the Laws of the Land and to supercede all laws and Constitutions of the states—why is the Ratification of them left to the senate & President—and not to the house of Representatives also?

These queries if satisfactorily answer'd will defeat all the attempts of the opposition—many of them I can readily answer to satisfy myself—but I still doubt whether my fondness for the new government may not make me as improper a Judge in its favor, as the rage of the opposition renders those who are under its influence inadequate to decide even agt. it—

You will I hope my good sir excuse this scrawl which is scarcely legible it has been written by peice meals—& as I cou'd snatch an opportu-

nity from the hurry of business-& from the noise & clamour of the disputants at ye house in which I lodge-the Mail is just going out and I have not time-to add the detail of State politics-but as I have written on the subject of the federal Constitution-I will just detain you for a moment on ye present Situation of it in this state-

The people in the Country generally for it-the doctrine of amendments exploded by them-the Assembly I fear agt. it-Mr. Henry-Mr. Harrison-Mr. smith³-All the Cabells & Colo. Mason-agt. or at least favorers of the Amendatory system-& notwithstanding our Resolutions of the 25th. of October⁴-I fear we shall still pass some measure that may have an influence unwarrantable & derogatory Mr. Henry has declared his intention (and perhaps this day may see his plan effectuated) of bringing in a bill for the purpose of promoting a second Convention at Philadelphia to consider amendments-& that the speakers of the two houses shou'd form a Committee of Correspondence to communicate with our sister states on that subject-You know the force of this wonderful mans oratory upon a Virginia house of Delegates-& I am sure will with me lament that that force shou'd be ever erroneously or injudiciously directed-

Much I hope sir that we shall have the assistance of your Counsel in the Convention-

My best regards to Mr. Carrington-Mr. Griffin & Mr. Brown if they have arrived⁵-

1. RC, Madison Collection, NN. Madison responded to Turberville's queries on 1 March 1788, but the letter is not extant.

2. See CC:276. Turberville apparently took almost all of his objections from Mason.

3. Meriwether Smith (1730-1790) represented Essex County in the House of Delegates and in the Virginia Convention, where he voted against the ratification of the Constitution in June 1788.

4. See CC:328, note 9.

5. Carrington, Griffin, and Brown had been elected delegates to Congress by the Virginia legislature on 23 October.

339 A-B. President John Sullivan on the Constitution Portsmouth, 11 December and 30 January 1788

On 1 November New Hampshire President John Sullivan called a special session of the General Court to meet on 5 December, six weeks earlier than scheduled, "to consider on business of the highest importance" (*Massachusetts Centinel*, 10 November). Although a quorum was not assembled on the 5th, Sullivan delivered his message to the legislature in the Council Chambers.

On 11 December the essence of Sullivan's comments on the Constitution was published in the *New Hampshire Spy* with no indication that it was part of Sullivan's speech to the General Court. The *Spy*'s report was reprinted seventeen times by 26 January 1788: N.H. (3), Mass. (4), R.I. (2), Conn. (2), Pa. (4), Md. (2). Similar items were published in the *New Hampshire Mercury* on 11 December and

in the *Salem Mercury* on 18 December. The latter's account was reprinted eight times by 10 January: N.Y. (6), N.J. (1), Pa. (1).

On 30 January the *New Hampshire Mercury* published the text of the entire speech. Within a month ten newspapers reprinted the speech: N.H. (1), Mass. (3), R.I. (1), Conn. (2), Pa. (3); and by 12 March ten other newspapers reprinted one or more of the excerpts on the Constitution: Mass. (3), Conn. (3), N.Y. (2), Md. (1), Va. (1). The entire speech was also reprinted in the May 1788 issue of the *Philadelphia American Museum*.

The *Mercury's* version of the speech is virtually identical to the manuscript version found in the Gratz Collection, Misc. Series, in the Historical Society of Pennsylvania.

339-A. *New Hampshire Spy*, 11 December

It is with real pleasure that we can announce the sentiments of his Excellency, President SULLIVAN, to be perfectly *federal*. He has been heard to express himself in near the following terms, "That although he did not doubt New-Hampshire, singly considered, might have framed a better constitution for themselves, yet when the whole of the *thirteen* states were considered; that it was to *unite* them, jarring in interests, in politics and prejudices, he was bold to say, *It was one of the best systems of government that ever was devised*; and that *all the objections* which have been raised against it are no more than what might be brought against any form of government whatever."

339-B. *John Sullivan: Speech to the New Hampshire General Court*
New Hampshire Mercury, 30 January (excerpts)

. . . Among the public papers which I have the honor to lay before you, the report of the national Convention, respecting a Plan of Government for the people of the United-States, with the Resolve of Congress accompanying the same, will undoubtedly claim your attention.

The important question, Whether the proposed form shall be received or rejected, can no farther come under your consideration, at this time, than as it stands connected with, or may be affected by your determination respecting the propriety of appointing delegates to decide upon it.

The proposed plan undoubtedly has its defects: the wisdom of man has never yet been able to furnish the world with a perfect system of government: perhaps that which claims the attention of America is liable to as few exceptions as any which has hitherto been produced.

I have carefully considered the plan, and endeavored to weigh the objections which have been raised against it; and have not, as yet, been able to discover any of more weight than might be urged against the most perfect system which has yet been offered to mankind; or, perhaps, might be alledged against any which human wisdom may ever contrive. . . .

Permit me, gentlemen, to recommend to you unanimity and dispatch; and to assure you that I shall most cheerfully join you in every measure for promoting the public interest.

Given at the Council-Chamber in Portsmouth, the 5th day of December, 1787, and in the 12th year of American Independence.

340. Publius: The Federalist 20
New York Packet, 11 December¹

This essay was written by James Madison with assistance from Alexander Hamilton. It was reprinted in the New York *Independent Journal*, 12 December; the New York *Daily Advertiser*, 12, 13 December; and the supplements to the Poughkeepsie *Country Journal*, 29 January, 5 February 1788.

For a general discussion of the authorship, circulation, and impact of *The Federalist*, see CC:201. For a discussion of the authorship of essays 18–20, see CC:330.

The FŒDERALIST, No. 20.

To the People of the State of New-York.

The United Netherlands are a confederacy of republics, or rather of aristocracies, of a very remarkable texture; yet confirming all the lessons derived from those which we have already reviewed.

The Union is composed of seven co-equal and sovereign States, and each State or province is a composition of equal and independent cities. In all important cases not only the provinces, but the cities must be unanimous.

The sovereignty of the Union is represented by the States General, consisting usually of about 50 deputies appointed by the provinces. They hold their seats, some for life, some for six, three and one years. From two provinces they continue in appointment during pleasure.

The States General have authority to enter into treaties and alliances—to make war and peace—to raise armies and equip fleets—to ascertain quotas and demand contributions. In all these cases however, unanimity and the sanction of their constituents are requisite. They have authority to appoint and receive Ambassadors—to execute treaties and alliances already formed—to provide for the collection of duties on imports and exports—to regulate the mint, with a saving to the provincial rights—to govern as sovereigns the dependent territories. The provinces are restrained, unless with the general consent, from entering into foreign treaties—from establishing imposts injurious to others, or charging their neighbours with higher duties than their own subjects. A Council of State, a chamber of accounts, with five colleges of admiralty, aid and fortify the fœderal administration.

The executive magistrate of the Union is the Stadtholder, who is now a hereditary Prince. His principal weight and influence in the republic

is derived from this independent title; from his great patrimonial estates; from his family connections with some of the chief potentates of Europe; and more than all, perhaps, from his being Stadtholder in the several provinces, as well as for the Union, in which provincial quality, he has the appointment of town magistrates under certain regulations, executes provincial decrees, presides when he pleases in the provincial tribunals; and has throughout the power of pardon.

As Stadtholder of the Union, he has however considerable prerogatives.

In his political capacity he has authority to settle disputes between the provinces, when other methods fail—to assist at the deliberations of the States General, and at their particular conferences—to give audiences to foreign Ambassadors, and to keep agents for his particular affairs at foreign Courts.

In his military capacity, he commands the federal troops—provides for garrisons, and in general regulates military affairs—disposes of all appointments from Colonels to Ensigns, and of the governments and posts of fortified towns.

In his marine capacity, he is Admiral General, and superintends and directs every thing relative to naval forces, and other naval affairs—presides in the admiralties in person or by proxy—appoints Lieutenant Admirals and other officers—and establishes Councils of war, whose sentences are not executed till he approves them.

His revenue, exclusive of his private income, amounts to 300,000 florins. The standing army which he commands consists of about 40,000 men.

Such is the nature of the celebrated Belgic confederacy, as delineated on parchment. What are the characters which practice has stamped upon it? Imbecility in the government; discord among the provinces; foreign influence and indignities; a precarious existence in peace, and peculiar calamities from war.

It was long ago remarked by Grotius, that nothing but the hatred of his countrymen to the House of Austria, kept them from being ruined by the vices of their constitution.

The Union of Utrecht, says another respectable writer, reposes an authority in the States General seemingly sufficient to secure harmony, but the jealousy in each province renders the practice very different from the theory.

The same instrument says another, obliges each province to levy certain contributions; but this article never could and probably never will be executed; because the inland provinces who have little commerce cannot pay an equal quota.

In matters of contribution, it is the practice to waive the articles of the constitution. The danger of delay obliges the consenting provinces to furnish their quotas, without waiting for the others; and then to obtain reimbursement from the others, by deputations, which are frequent, or otherwise as they can. The great wealth and influence of the province of Holland, enable her to effect both these purposes.

It has more than once happened that the deficiencies have been ultimately to be collected at the point of bayonet; a thing practicable, though dreadful, in a confederacy, where one of the members, exceeds in force all the rest; and where several of them are too small to meditate resistance: but utterly impracticable in one composed of members, several of which are equal to each other in strength and resources, and equal singly to a vigorous and persevering defence.

Foreign Ministers, says Sir William Temple, who was himself a foreign Minister, elude matters taken ad referendum, by tampering with the provinces and cities. In 1726, the treaty of Hanover was delayed by these means a whole year. Instances of a like nature are numerous and notorious.

In critical emergencies, the States General are often compelled to overleap their constitutional bounds. In 1688, they concluded a treaty of themselves at the risk of their heads. The treaty of Westphalia in 1648, by which their independence was formally and finally recognized, was concluded without the consent of Zealand. Even as recently as the last treaty of peace with Great Britain, the constitutional principle of unanimity was departed from. A weak constitution must necessarily terminate in dissolution, for want of proper powers, or the usurpation of powers requisite for the public safety. Whether the usurpation, when once begun, will stop at the salutary point, or go forward to the dangerous extreme, must depend on the contingencies of the moment. Tyranny has perhaps oftener grown out of the assumptions of power, called for, on pressing exigencies, by a defective constitution, than by the full exercise of the largest constitutional authorities.

Notwithstanding the calamities produced by the Stadtholdership, it has been supposed, that without his influence in the individual provinces, the causes of anarchy manifest in the confederacy, would long ago have dissolved it. "Under such a government, says the Abby Mably, the Union could never have subsisted, if the provinces had not a spring within themselves, capable of quickening their tardiness, and compelling them to the same way of thinking. This spring is the Stadtholder." It is remarked by Sir William Temple, "that in the intermissions of the Stadtholdership, Holland by her riches and her authority, which drew the others into a sort of dependence, supplied the place."

These are not the only circumstances which have controuled the tendency to anarchy and dissolution. The surrounding powers impose an absolute necessity of Union to a certain degree, at the same time, that they nourish by their intrigues, the constitutional vices, which keep the republic in some degree always at their mercy.

The true patriots have long bewailed the fatal tendency of these vices, and have made no less than four regular experiments, by *extraordinary assemblies*, convened for the special purpose, to apply a remedy, as many times, has their laudable zeal found it impossible to *unite the public councils* in reforming the known, the acknowledged, the fatal evils of the existing constitution. Let us pause my fellow citizens, for one moment, over this melancholy and monitory lesson of history; and with the tear that drops for the calamities brought on mankind by their adverse opinions and selfish passions; let our gratitude mingle an ejaculation to Heaven, for the propitious concord which has distinguished the consultations for our political happiness.

A design was also conceived of establishing a general tax to be administered by the fœderal authority. This also had its adversaries and failed.

This unhappy people seem to be now suffering from popular convulsions, from dissensions among the States, and from the actual invasion of foreign arms, the crisis of their destiny. All nations have their eyes fixed on the awful spectacle. The first wish prompted by humanity is, that this severe trial may issue in such a revolution of their government, as will establish their Union, and render it the parent of tranquility, freedom and happiness: The next, that the asylum under which, we trust, the enjoyment of these blessings, will speedily be secured in this country, may receive and console them for the catastrophe of their own.

I make no apology for having dwelt so long on the contemplation of these fœderal precedents. Experience is the oracle of truth; and where its responses, are unequivocal, they ought to be conclusive and sacred. The important truth, which it unequivocally pronounces in the present case, is, that a sovereignty over sovereigns, a government over governments, a legislation for communities, as contradistinguished from individuals; as it is a solecism in theory; so in practice, it is subversive of the order and ends of civil polity, by substituting *violence* in place of *law*, or the destructive *coertion* of the *sword*, in place of the mild and salutary *coertion* of the *magistracy*.

1. The sources referred to in this essay were all cited in Madison's "Notes on Ancient and Modern Confederacies," Rutland, *Madison*, IX, 3-24; X, 324n.

341. Publius: The Federalist 21
New York Independent Journal, 12 December

Alexander Hamilton wrote this essay. It was reprinted in the New York *Daily Advertiser* and the *New York Packet*, 14 December; and the supplement to the *Poughkeepsie Country Journal*, 5 February 1788.

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

The FOEDERALIST. No. XXI.

To the People of the State of New-York.

Having in the three last numbers taken a summary review of the principal circumstances and events, which have depicted the genius and fate of other confederate governments; I shall now proceed in the enumeration of the most important of those defects, which have hitherto disappointed our hopes from the system established among ourselves. To form a safe and satisfactory judgment of the proper remedy, it is absolutely necessary that we should be well acquainted with the extent and malignity of the disease.

The next most palpable defect of the subsisting confederation is the total want of a SANCTION to its laws. The United States as now composed, have no powers to exact obedience, or punish disobedience to their resolutions, either by pecuniary mulcts by a suspension or divestiture of privileges, or in any other constitutional mode. There is no express delegation of authority to them to use force against delinquent members; and if such a right should be ascribed to the foederal head, as resulting from the nature of the social compact between the States, it must be by inference and construction, in the face of that part of the second article, by which it is declared, that is, "each State shall retain every power, jurisdiction and right, not *expressly* delegated to the United States in Congress assembled."¹ There is doubtless a striking absurdity in supposing that a right of this kind does not exist, but we are reduced to the dilemma either of embracing that supposition, preposterous as it may seem, or of contravening or explaining away a provision, which has been of late a repeated theme of the eulogies of those, who oppose the new constitution; and the want of which in that plan, has been the subject of much plausible animadversion and severe criticism. If we are unwilling to impair the force of this applauded provision, we shall be obliged to conclude, that the United States afford the extraordinary spectacle of a government, destitute even of the shadow of constitutional power to enforce the execution of its own laws. It will appear from the specimens which have been cited, that the American confederacy in this particular, stands discriminated from every other institution of a similar kind, and exhibits a new and unexampled phenomenon in the political world.

The want of a mutual guarantee of the State governments is another capital imperfection in the fœderal plan. There is nothing of this kind declared in the articles that compose it; and to imply a tacit guarantee from consideration of utility, would be a still more flagrant departure from the clause which has been mentioned, than to imply a tacit power of coercion, from the like considerations. The want of a guarantee, though it might in its consequences endanger the Union, does not so immediately attack its existence as the want of a constitutional sanction to its laws.

Without a guarantee, the assistance to be derived from the Union in repelling those domestic dangers, which may sometimes threaten the existence of the State constitutions, must be renounced. Usurpation may rear its crest in each State, and trample upon the liberties of the people; while the national government could legally do nothing more than behold its encroachments with indignation and regret. A successful faction may erect a tyranny on the ruins of order and law, while no succour could constitutionally be afforded by the Union to the friends and supporters of the government. The tempestuous situation, from which Massachusetts has scarcely emerged, evinces that dangers of this kind are not merely speculative.² Who can determine what might have been the issue of her late convulsions, if the mal-contents had been headed by a Cæsar or by a Cromwell? Who can predict what effect a despotism established in Massachusetts, would have upon the liberties of New-Hampshire or Rhode-Island; of Connecticut or New-York?

The inordinate pride of State importance has suggested to some minds an objection to the principle of a guarantee in the fœderal Government; as involving an officious interference in the domestic concerns of the members. A scruple of this kind would deprive us of one of the principal advantages to be expected from Union; and can only flow from a misapprehension of the nature of the provision itself—It could be no impediment to reforms of the State Constitutions by a majority of the people in a legal and peaceable mode. This right would remain undiminished. The guarantee could only operate against changes to be effected by violence. Towards the prevention of calamities of this kind too many checks cannot be provided. The peace of society, and the stability of government, depend absolutely on the efficacy of the precautions adopted on this head. Where the whole power of the government is in the hands of the people, there is the less pretence for the use of violent remedies, in partial or occasional distempers of the State. The natural cure for an ill administration, in a popular or representative constitution, is a change of men. A guarantee by the national authority would be as much levelled against the usurpations of rulers, as against the ferments and outrages of faction and sedition in the community.

The principle of regulating the contributions of the states to the common treasury by QUOTAS is another fundamental error in the confederation. Its repugnancy to an adequate supply of the national exigencies has been already pointed out, and has sufficiently appeared from the trial which has been made of it. I speak of it now solely with a view to equality among the States. Those who have been accustomed to contemplate the circumstances, which produce constitutional wealth, must be satisfied that there is no common standard, or barometer, by which the degrees of it can be ascertained. Neither the value of lands nor the numbers of the people, which have been successively proposed as the rule of State contributions, has any pretension to being a just representative. If we compare the wealth of the United Netherlands with that of Russia or Germany or even of France; and if we at the same time compare the total value of the lands, and the aggregate population of that contracted district, with the total value of the lands, and the aggregate population of the immense regions of either of the three last mentioned countries, we shall at once discover that there is no comparison between the proportion of either of these two objects and that of the relative wealth of those nations. If the like parallel were to be run between several of the American States; it would furnish a like result. Let Virginia be contrasted with North-Carolina, Pennsylvania with Connecticut, or Maryland with New-Jersey, and we shall be convinced that the respective abilities of those States, in relation to revenue, bear little or no analogy to their comparative stock in lands or to their comparative population—The position may be equally illustrated by a similar process between the counties of the same State. No man who is acquainted with the State of New-York will doubt, that the active wealth of Kings County bears a much greater proportion to that of Montgomery, than it would appear to be, if we should take either the total value of the lands or the total numbers of the people as a criterion!

The wealth of nations depends upon an infinite variety of causes. Situation, soil, climate, the nature of the productions, the nature of the government, the genius of the citizens—the degree of information they possess—the state of commerce, of arts, of industry—these circumstances and many much too complex, minute, or adventitious, to admit of a particular specification, occasion differences hardly conceivable in the relative opulence and riches of different countries. The consequence clearly is, that there can be no common measure of national wealth; and of course, no general or stationary rule, by which the ability of a State to pay taxes can be determined. The attempt therefore to regulate the contributions of the members of a confederacy, by any such rule, cannot fail to be productive of glaring inequality and extreme oppression.

This inequality would of itself be sufficient in America to work the eventual destruction of the Union, if any mode of enforcing a compliance with its requisitions could be devised. The suffering States would not long consent to remain associated upon a principle which distributes the public burthens with so unequal a hand; and which was calculated to impoverish and oppress the citizens of some States, while those of others would scarcely be conscious of the small proportion of the weight they were required to sustain. This however is an evil inseparable from the principle of quotas and requisitions.

There is no method of steering clear of this inconvenience but by authorising the national Government to raise its own revenues in its own way. Imposts, excises and in general all duties upon articles of consumption may be compared to a fluid, which will in time find its level with the means of paying them. The amount to be contributed by each citizen will in a degree be at his own option, and can be regulated by an attention to his resources. The rich may be extravagant, the poor can be frugal. And private oppression may always be avoided by a judicious selection of objects proper for such impositions. If inequalities should arise in some States from duties on particular objects, these will in all probability be counterballanced by proportional inequalities in other States from the duties on other objects. In the course of time and things, an equilibrium, as far as it is attainable, in so complicated a subject, will be established every where. Or if inequalities should still exist they would neither be so great in their degree, so uniform in their operation, nor so odious in their appearance, as those which would necessarily spring from quotas upon any scale, that can possibly be devised.

It is a signal advantage of taxes on articles of consumption, that they contain in their own nature a security against excess. They prescribe their own limit; which cannot be exceeded without defeating the end proposed—that is an extension of the revenue. When applied to this object, the saying is as just as it is witty, that “in political arithmetic, two and two do not always make four.” If duties are too high they lessen the consumption—the collection is eluded; and the product to the treasury is not so great as when they are confined within proper and moderate bounds. This forms a complete barrier against any material oppression of the citizens, by taxes of this class, and is itself a natural limitation of the power of imposing them.

Impositions of this kind usually fall under the denomination of indirect taxes, and must always constitute the chief part of the revenue raised in this country. Those of the direct kind, which principally relate to lands and buildings, may admit of a rule of apportionment. Either the value of land, or the number of the people may serve as a standard. The

state of agriculture, and the populousness of a country, have been considered as nearly connected with each other. And as a rule for the purpose intended, numbers in the view of simplicity and certainty, are entitled to a preference. In every country it is an Herculean task to obtain a valuation of the land; in a country imperfectly settled and progressive in improvement, the difficulties are increased almost to impracticability. The expence of an accurate valuation is in all situations a formidable objection. In a branch of taxation where no limits to the discretion of the government are to be found in the nature of things, the establishment of a fixed rule, not incompatible with the end, may be attended with fewer inconveniencies than to leave that discretion altogether at large.

1. The italics are "Publius'."
2. Shays's Rebellion.

342. Philadelphiensis IV

Philadelphia Freeman's Journal, 12 December¹

I SAMUEL iii [viii]. 18.—*And ye shall cry out in that day, because of your king which ye shall have chosen you: and the Lord will not hear you in that day.*

My Fellow-Citizens, I do not write to inflame your minds, but to inform them. I do not write with a view to excite jealousies, and exhibit imaginary evils, but to promote your peace: I have no intentions of encouraging you to oppose or alter your present free government; but on the contrary, I advise you, yea, I entreat you, not to change it for one that is worse: if you cannot procure a better, why, be doing with the old bad one. Except you are tired of freedom; except you are determined to entail slavery on yourselves and your posterity, for God's sake reject with that dignity becoming freemen, that tyrannical system of government, the new constitution. If you adopt it in toto, you will lose every thing dear to freemen, and receive nothing in return but misery and disgrace. Were some additional powers for regulating commerce, and the *impost duties* for a limited time, granted to the present Congress; this would probably answer all our purposes: but before Congress should be vested with greater powers than they now have, their number ought at least to be tripled—suppose two hundred and sixty; that is, twenty members for each state. But this matter I shall leave for the discussion of our next federal convention; if we should have the good luck to see their high mightinesses once more *locked up in the State-house*, guarded by captain M'Clean's old battle-ax battalion.

Among the schemes and collusions that the friends of the new constitution have made use of to dupe the people into its adoption, that of making them believe that such a government would raise America to an eminent rank among the nations of the earth, seems to have been one

of the most successful.—There is not a writer that I have seen on the subject, that has called the truth of this matter into question; no wonder then, that the less informed should be imposed upon; when men of more enlightened understandings seem even to have swallowed the bait.

No people in the world have more of the genuine *amor patriæ*, than the citizens of the United States; that noble ambition, that laudable love for the dignity and character of his country, is so implanted in the breast of an American, that he is willing not only to contribute generously and largely of his property, but likewise to expend his blood to support that government that should establish the national respectability of his country.—This truly grand principle is so copiously infused into the hearts of our countrymen, that, I really believe, there is scarce an inconvenience to which they would not cheerfully submit, provided this great point could be obtained. On this account then there are many who, although they are thoroughly persuaded, that the new constitution is defective in many striking and material instances, yet, through their national pride, would magnanimously overlook these, to have their country on a respectable footing as a nation. But ah, my fellow citizens, you are even disappointed here! It is a mere delusion! nothing but the basest deception; for, in the adoption of this constitution, we will probably lose that small portion of national character which we now enjoy, instead of gaining an accession to it. What compensation then are you to receive in return for the liberties and privileges belonging to yourselves and posterity, that you are now about to sacrifice at the altar of this *monster*, this *Colossus of despotism*. Why really the return you deserve, if you are mean enough to submit to be gulled after this manner, is *poverty*, *slavery* and *broken hearts*.—But probably, you will say, these are groundless conjectures, and we are perfectly convinced, that our new government, however it may be imperfect in some matters of an inferior nature, yet it must and will be *powerful*; yea, a government that will make its enemies tremble. If you mean by its enemies the helpless widow and orphan, the hard working husbandman, sunk down by labour and poverty, I grant it; but if you mean a foreign enemy, you insult your understanding. No, my friends, instead of becoming formidable, we will be the scorn and contempt of the whole world during the existence of this contemptible government. Let us take but a rational view of its strength and respectability, and then we shall see that we have really nothing to depend on in this new constitution, that can raise the national character of America, but on the contrary, we will sink into a state of insignificance and misery.

The number of inhabitants in the United States is now probably about three millions and an half.—These are scattered over a continent

twelve hundred miles long and eight hundred broad. Now to keep such an extensive country in subjection to one general government, a *standing army* by far too numerous for such a small number of people to maintain, must and will be garrisoned in every district through the whole; and in case of emergency, the collecting of these scattered troops into one large body, to act against a foreign enemy, will be morally impossible. Besides they will have too much business on hand at their respective garrisons, *in awing the people*, to be spared for other purposes. There is no doubt, but to carry the arbitrary decrees of the federal judges into execution, and to protect the *tax gatherers* in collecting the revenue, will be ample employment for the military; indeed with all their strength and numbers, I am afraid, that they will find this a job of some difficulty, perhaps more than they will get through decently. Upon the whole I think it is pretty obvious, that our *standing army* will have *other fish to fry* than fighting a foreign enemy; there is work enough cut out for them of a domestic nature, without troubling them on other occasions. Moreover, such of them as might be brought into action, could not be depended upon; for they will principally consist of the purgings of the European prisons, and low ruffians bred among ourselves who do not love to work.—And who could suppose that such vile characters as these, should be trusted to protect our country, our wives, our daughters, and our little ones? No, my friends, God deliver us from such protectors!—Their mean souls wanting that *amor patriæ*, that love of virtue, that noble love for the welfare and happiness of their fellow men, which animates the man of courage, and constitutes him the soldier, would fail them at the approach of an enemy; yea, they would either fly ere the battle commenced, or submit on the first charge; and probably turn their arms against the country that expected their protection. What I advance here, are truths, founded on reason and the nature of things, and the experience of all ages affords ample examples for their illustration.

Very little need be said respecting the militia defending the country; perhaps what I have advanced in my last essay,² is enough on that head; indeed the thing itself carries its own evidence along with it. A person that has judgment sufficient to compare two ideas together, must see, that an *oppressed people*, reduced to a state of abject vassalage, by a despotic government, will never voluntarily venture their lives for it.

When people are once slaves, it is a matter of little concern to them who are their masters.—The fable of the sensible ass is so pertinent to our purpose, that I cannot forbear reciting it:—"An old fellow was feeding an ass in a fine green meadow, and being alarmed by the sudden approach of the enemy, was impatient with the ass to put himself forward, and fly with all the speed he was able. The ass asked him, whether

or no he thought the enemy would clap *two pair of panniers* upon his back? The man said, no, there was no fear of that. Why then, says the ass, I'll not stir an inch, for what is it to me who my master is, since I shall but carry my *panniers* as usual."

There is not the most distant hope, that we shall ever have a navy under this constitution which annihilates the state governments; for, if each state were to retain its *sovereignty*, I am well convinced, that we might have a considerable *fleet* in a few years; the larger states might each build a ship of the line every year, and the lesser states would furnish us with frigates; a noble emulation among the states would be the consequence, one state would vie with another, and public spirited individuals would contribute generously to raise the character of their own state. But this consolidation of all the states into one general government, renders this project impossible; the federal government having an unlimited power in taxation, which, no doubt, they will exercise to the utmost; leaves the states without the means of building even a *boat*. But had they money, they dare not use it for that purpose, for, Congress are to have an absolute power over the *standing army, navy, and militia*; so that it is out of the question, whether a particular state be, or be not, able to build a ship of war; she must meddle with no such matter; it only belongs to the emperor and our well born Congress to build and maintain a navy. Now, if we give ourselves time to think but for a moment, we must be convinced in our minds, that Congress having a large national debt already accumulated, the emperor, themselves, their judges, lawyers, revenue-collectors, dependants, flatterers, &c. &c. and above all, the *standing army*, at least double officered, to provide for, will find themselves at their wit's end, to devise *ways and means* for all these purposes. In short, the industry of three millions of people, were it all applied to this use, would be little enough.—Where then will the navy come from? Where will Congress find money even to build and maintain cutters to prevent smuggling on the extensive coast of America? No where, truly: such a supposition is farcical indeed; and should the new constitution be established, a federal navy is a mere finesse, an absolute nonentity.

The Congress must procure money to pay the *standing army punctually*, come of other matters what will; their very existence depends on this. For a neglect of payment might and really would cause a mutiny in the military, and then, down tumbles the federal constitution, whose *mighty basis* was said to be at the centre of the earth. The standing army will be its grand support—now, if this give way, the building itself will be instantly levelled to the ground. And heaven grant that Columbia may never see such another erected again on her domain. *Amen.*

1. This essay was also printed in the Philadelphia *Independent Gazetteer* on 12 December. It was reprinted in the *Virginia Independent Chronicle*, 26 December. For a discussion of the authorship, circulation, and impact of "Philadelphiensis," see CC:237.

2. See "Philadelphiensis" III (CC:320).

343. Brutus V

New York Journal, 13 December¹

To the PEOPLE of the State of NEW-YORK.

It was intended in this Number to have prosecuted the enquiry into the organization of this new system; particularly to have considered the dangerous and premature union of the President and Senate, and the mixture of legislative, executive, and judicial powers in the Senate.

But there is such an intimate connection between the several branches in whom the different species of authority is lodged, and the powers with which they are invested, that on reflection it seems necessary first to proceed to examine the nature and extent of the powers granted to the legislature.

This enquiry will assist us the better to determine, whether the legislature is so constituted, as to provide proper checks and restrictions for the security of our rights, and to guard against the abuse of power—For the means should be suited to the end; a government should be framed with a view to the objects to which it extends: if these be few in number, and of such a nature as to give but small occasion or opportunity to work oppression in the exercise of authority, there will be less need of a numerous representation, and special guards against abuse, than if the powers of the government are very extensive, and include a great variety of cases. It will also be found necessary to examine the extent of these powers, in order to form a just opinion how far this system can be considered as a confederation, or a consolidation of the states. Many of the advocates for, and most of the opponents to this system, agree that the form of government most suitable for the United States, is that of a confederation. The idea of a confederated government is that of a number of independent states entering into a compact, for the conducting certain general concerns, in which they have a common interest, leaving the management of their internal and local affairs to their separate governments. But whether the system proposed is of this nature cannot be determined without a strict enquiry into the powers proposed to be granted.

This constitution considers the people of the several states as one body corporate, and is intended as an original compact, it will therefore dissolve all contracts which may be inconsistent with it. This not only results from its nature, but is expressly declared in the *6th article* of it.

The design of the constitution is expressed in the preamble, to be, "in order to form a more perfect union, to establish justice, insure domestic tranquility, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and posterity." These are the ends this government is to accomplish, and for which it is invested with certain powers, among these is the power "to make all laws which are *necessary and proper* for carrying into execution the foregoing powers, and *all other* powers vested by this constitution in the government of the United States, or in any department or officer thereof." It is a rule in construing a law to consider the objects the legislature had in view in passing it, and to give it such an explanation as to promote their intention. The same rule will apply in explaining a constitution. The great objects then are declared in this preamble in general and indefinite terms to be to provide for the common defence, promote the general welfare, and an express power being vested in the legislature to make all laws which shall be necessary and proper for carrying into execution all the powers vested in the general government. The inference is natural that the legislature will have an authority to make all laws which they shall judge necessary for the common safety, and to promote the general welfare. This amounts to a power to make laws at discretion: No terms can be found more indefinite than these, and it is obvious, that the legislature alone must judge what laws are proper and necessary for the purpose. It may be said, that this way of explaining the constitution, is torturing and making it speak what it never intended. This is far from my intention, and I shall not even insist upon this implied power, but join issue with those who say we are to collect the idea of the powers given from the express words of the clauses granting them; and it will not be difficult to shew that the same authority is expressly given which is supposed to be implied in the forgoing paragraphs.

In the 1st article, 8th section, it is declared, "that Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts, and provide for the common defence, and general welfare of the United States." 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 this clause 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, as I shall hereafter shew. It has been urged that the meaning I give to this part of the constitution is not the true one, that the intent of it is to confer on the legislature the power to lay and collect taxes, &c. in order to provide for the common defence and general welfare. To this I would reply, that the meaning and intent of the constitution is to be collected from the words of it, and I submit to the public, whether the construction I have given it is not the most natural and easy. But admitting the contrary opinion to prevail, I shall nevertheless, be able to shew, that the same powers are substantially vested in the general government, by several other articles in the constitution. It invests the legislature with authority to lay and collect taxes, duties, imposts and excises, in order to provide for the common defence, and promote the general welfare, 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 1st. what is included in this power to lay and collect taxes, duties, imposts and excises.

2d. What is implied in the authority, to pass all laws which shall be necessary and proper for carrying this power into execution.

3d. What limitation, if any, is set to the exercise of this power by the constitution.

1st. To detail the particulars comprehended in the general terms, taxes, duties, imposts and excises, would require a volume, instead of a single piece in a news-paper. 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 land-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 any amount, to tonnage and poundage on vessels, to duties on written instruments, news-papers, almanacks, and books:—It comprehends an excise on all kinds of liquors, spirits, wines, cyder, beer, &c. and indeed takes in duty or excise on every necessary or conveniency of life; whether of foreign or home growth or manufactory. 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. We may say then that this clause commits to the hands of the general legislature every conceivable source of revenue within the United States. Not only are these terms 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 a vast number of laws, which may affect the personal rights of the citizens of the states; expose their property to fines and confiscation, and put their lives in jeopardy: it opens a door to the appointment of a swarm of revenue and excise officers to prey upon the honest and industrious part of the community, eat up their substance, and riot on the spoils of the country.

2d. We will next enquire 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, and as it were infinite, that no man living has, as 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 that 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? It is truly incomprehensible. A case cannot be conceived of, 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 the legislature. The command of the revenues of a state gives the command of every thing in it.—He that has the purse will have the sword, and they that have both, have every thing; so that the legislature having every source from which money can be drawn under their direction, with a right to make all laws necessary and proper for drawing forth all the resource of the country, would have, in fact, all power.

Were I to enter into the detail, it would be easy to shew how this power in its operation, would totally destroy all the powers of the individual states. But this is not necessary for those who will think for themselves, and it will be useless to such as take things upon trust, nothing will awaken them to reflection, until the iron hand of oppression compel them to it.

I shall only remark, that this power, given to the federal legislature, directly annihilates all the powers of the state legislatures. There cannot be a greater solecism in politics than to talk of power in a government, without the command of any revenue. It is as absurd as to talk of an

animal without blood, or the subsistence of one without food. Now the general government having in their controul every possible source of revenue, and authority to pass any law they may deem necessary to draw them forth, or to facilitate their collection; no source of revenue is therefore left in the hands of any state. Should any state attempt to raise money by law, the general government may repeal or arrest it in the execution, for all their laws will be the supreme law of the land: If then any one can be weak enough to believe that a government can exist without having the authority to raise money to pay a door-keeper to their assembly, he may believe that the state government can exist, should this new constitution take place.

It is agreed by most of the advocates of this new system, that the government which is proper for the United States should be a confederated one; that the respective states ought to retain a portion of their sovereignty, and that they should preserve not only the forms of their legislatures, but also the power to conduct certain internal concerns. How far the powers to be retained by the states shall extend, is the question; we need not spend much time on this subject, as it respects this constitution, for a government without the power to raise money is one only in name. It is clear that the legislatures of the respective states must be altogether dependent on the will of the general legislature, for the means of supporting their government. The legislature of the United States will have a right to exhaust every source of revenue in every state, and to annul all laws of the states which may stand in the way of effecting it; unless therefore we can suppose the state governments can exist without money to support the officers who execute them, we must conclude they will exist no longer than the general legislatures choose they should. Indeed the idea of any government existing, in any respect, as an independent one, without any means of support in their own hands, is an absurdity. If therefore, this constitution has in view, what many of its framers and advocates say it has, to secure and guarantee to the separate states the exercise of certain powers of government it certainly ought to have left in their hands some sources of revenue. It should have marked the line in which the general government should have raised money, and set bounds over which they should not pass, leaving to the separate states other means to raise supplies for the support of their governments, and to discharge their respective debts. To this it is objected, that the general government ought to have power competent to the purposes of the union; they are to provide for the common defence, to pay the debts of the United States, support foreign ministers, and the civil establishment of the union, and to do these they ought to have authority to raise money adequate to the purpose. On this I observe, that the state

governments have also contracted debts, they require money to support their civil officers, and how this is to be done, if they give to the general government a power to raise money in every way in which it can possibly be raised, with such a controul over the state legislatures as to prohibit them, whenever the general legislature may think proper, from raising any money. It is again objected that it is very difficult, if not impossible, to draw the line of distinction between the powers of the general and state governments on this subject. The first, it is said, must have the power of raising the money necessary for the purposes of the union, if they are limited to certain objects the revenue may fall short of a sufficiency for the public exigencies, they must therefore have discretionary power. The line may be easily and accurately drawn between the powers of the two governments on this head. The distinction between external and internal taxes, is not a novel one in this country, it is a plain one, and easily understood. The first includes impost duties on all imported goods; this species of taxes it is proper should be laid by the general government; many reasons might be urged to shew that no danger is to be apprehended from their exercise of it. They may be collected in few places, and from few hands with certainty and expedition. But few officers are necessary to be employed in collecting them, and there is no danger of oppression in laying them, because, if they are laid higher than trade will bear, the merchants will cease importing, or smuggle their goods. We have therefore sufficient security, arising from the nature of the thing, against burdensome, and intolerable impositions from this kind of tax. But the case is far otherwise with regard to direct taxes; these include poll taxes, land taxes, excises, duties on written instruments, on every thing we eat, drink, or wear; they take hold of every species of property, and come home to every man's house and packet. These are often so oppressive, as to grind the face of the poor, and render the lives of the common people a burden to them. The great and only security the people can have against oppression from this kind of taxes, must rest in their representatives. If they are sufficiently numerous to be well informed of the circumstances, and ability of those who send them, and have a proper regard for the people, they will be secure. The general legislature, as I have shewn in a former paper,² will not be thus qualified, and therefore, on this account, ought not to exercise the power of direct taxation. If the power of laying imposts will not be sufficient, some other specific mode of raising a revenue should have been assigned the general government; many may be suggested in which their power may be accurately defined and limited, and it would be much better to give them authority to lay and collect a duty on exports, not to exceed a certain rate per cent, than to have surrendered every

kind of resource that the country has, to the complete abolition of the state governments, and which will introduce such an infinite number of laws and ordinances, fines and penalties, courts, and judges, collectors, and excisemen, that when a man can number them, he may enumerate the stars of Heaven.

I shall resume this subject in my next,³ and by an induction of particulars shew, that this power, in its exercise, will subvert all state authority, and will work to the oppression of the people, and that there are no restrictions in the constitution that will soften its rigour, but rather the contrary.

1. On 27 November the *New York Journal* announced that it had received "Brutus" V and that it would "be attended to as soon as possible." "Brutus" V was reprinted in the *Boston American Herald*, 31 December and the *Boston Independent Chronicle*, 3 January 1788. For a discussion of the authorship, circulation, and impact of "Brutus," see CC:178.

2. See CC:264 and CC:306.

3. See "Brutus" VI, *New York Journal*, 27 December, CC:384.

344. Cato VI

New York Journal, 13 December

On 6 December the printer of the *New York Journal* announced that "Cato" VI had been "received, and shall be attended to as soon as possible. - The AUTHOR of Cato will doubtless excuse the Editor for having neglected to acknowledge his sixth number, four days since, if he reflects upon the multiplicity of business at this office." "Cato" VI was reprinted in the *New York Daily Advertiser*, 15 December.

The author of the "Cato" series was derided by "Examiner" II-III (Charles McKnight) in the *New York Journal*, 14, 19 December. "A Friend to Common Sense," *New York Journal*, 19 December, and "Democritus," *New York Journal*, 21, 28 December, defended "Cato" against this personal invective. (See also "Examiner" V, *New York Journal*, 4 January 1788.)

For a discussion of the authorship, circulation, and impact of "Cato," see CC:103.

To the PEOPLE of the State of NEW-YORK.

The next objection that arises against this proffered constitution is, that the apportionment of representatives and direct taxes are unjust. - The words as expressed in this article are, "representatives and direct taxes shall be apportioned among the several states, which may be included in 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." In order to elucidate this, it will be necessary to repeat the remark in my last number,¹ that the mode of legislation in the infancy of free communities was by the collective body, and this consisted of free persons, or those whose age admitted them to the rights of mankind and citizenship-whose sex made

them capable of protecting the state, and whose birth may be denominated Free Born, and no traces can be found that even women, children, and slaves, or those who were not sui juris, in the early days of legislation, meeting with the free members of the community to deliberate on public measures; hence is derived this maxim in free governments, that representation ought to bear a proportion to the number of free inhabitants in a community; this principle your own state constitution, and others, have observed in the establishment of a future census, in order to apportion the representatives, and to increase or diminish the representation to the ratio of the increase or diminution of electors. But, what aid can the community derive from the assistance of women, infants, and slaves, in their deliberation, or in their defence? and what motive therefore could the convention have in departing from the just and rational principle of representation, which is the governing principle of this state and of all America.

The doctrine of taxation is a very important one, and nothing requires more wisdom and prudence than the regulation of that portion, which is taken from, and of that which is left to, the subject—and if you anticipate, what will be the enormous expence of this new government added also to your own, little will that portion be which will be left to you. I know there are politicians who believe, that you should be loaded with taxes, in order to make you industrious, and, perhaps, there were some of this opinion in the convention, but it is an erroneous principle—For, what can inspire you with industry, if the greatest measures of your labours are to be swallowed up in taxes? The advocates for this new system hold out an idea, that you will have but little to pay, for, that the revenues will be so managed as to be almost wholly drawn from the source of trade or duties on imports, but this is delusive—for this government to discharge all its incidental expences, besides paying the interests on the home and foreign debts, will require more money than its commerce can afford; and if you reflect one moment, you will find, that if heavy duties are laid on merchandize, as must be the case, if government intend to make this the prime medium to lighten the people of taxes, that the price of the commodities, useful as well as luxurious, must be increased; the consumers will be fewer; the merchants must import less; trade will languish, and this source of revenue in a great measure be dried up; but if you examine this a little further, you will find, that this revenue, managed in this way, will come out of you and be a very heavy and ruinous one, at least—The merchant no more than advances the money for you to the public, and will not, nor cannot pay any part of it himself, and if he pays more duties, he will sell his commodities at a price portionably raised—thus the laborer, mechanic, and

farmer, must feel it in the purchase of their utensils and clothing—wages, &c. must rise with the price of things, or they must be ruined, and that must be the case with the farmer, whose produce will not increase, in the ratio, with labour, utensils, and clothing; for that he must sell at the usual price or lower, perhaps, caused by the decrease of trade; the consequence will be, that he must mortgage his farm, and then comes inevitable bankruptcy.

In what manner then will you be eased, if the expences of government are to be raised solely out of the commerce of this country; do you not readily apprehend the fallacy of this argument. But government will find, that to press so heavily on commerce will not do, and therefore must have recourse to other objects; these will be a capitation or poll-tax, window lights, &c. &c. and a long train of impositions which their ingenuity will suggest; but will you submit to be numbered like the slaves of an arbitrary despot; and what will be your reflections when the tax-master thunders at your door for the duty on that light which is the bounty of heaven. It will be the policy of the great landholders who will chiefly compose this senate, and perhaps a majority of this house of representatives, to keep their lands free from taxes; and this is confirmed by the failure of every attempt to lay a land-tax in this state; hence recourse must and will be had to the sources I mentioned before. The burdens on you will be insupportable—your complaints will be inefficacious—this will beget public disturbances, and I will venture to predict, without the spirit of prophecy, that you and the government, if it is adopted, will one day be at issue on this point. The force of government will be exerted, this will call for an increase of revenue, and will add fuel to the fire. The result will be, that either you will revolve to some other form, or that government will give peace to the country, by destroying the opposition. If government therefore can, notwithstanding every opposition, raise a revenue on such things as are odious and burdensome to you, they can do any thing.

But why should the number of individuals be the principle to apportion the taxes in each state, and to include in that number, women, children and slaves. The most natural and equitable principle of apportioning taxes, would be in a ratio to their property, and a reasonable impost in a ratio to their trade; but you are told to look for the reason of these things in accommodation; but this much admired principle, when striped of its mystery, will in this case appear to be no less than a basis for an odious poll-tax—the offspring of despotic governments, a thing so detestable, that the state of Maryland, in their bill of rights, declares, “that the levying taxes by the poll, is grievous and oppressive, and ought to be abolished.”²—A poll-tax is at all times oppressive to the

poor, and their greatest misfortune will consist in having more prolific wives than the rich.

In every civilized community, even in those of the most democratic kind, there are principles which lead to an aristocracy—these are superior talents, fortunes, and public employments. But in free governments, the influence of the two former is resisted by the equality of the laws, and the latter by the frequency of elections, and the chance that every one has in sharing in public business; but when this natural and artificial eminence is assisted by principles interwoven in this government—when the senate, so important a branch of the legislature, is so far removed from the people, as to have little or no connexion with them; when their duration in office is such as to have the resemblance to perpetuity, when they are connected with the executive, by the appointment of all officers, and also, to become a judiciary for the trial of officers of their own appointments: added to all this, when none but men of opulence will hold a seat, what is there left to resist and repel this host of influence and power. Will the feeble efforts of the house of representatives, in whom your security ought to subsist, consisting of about seventy-three, be able to hold the balance against them, when, from the fewness of the number in this house, the senate will have in their power to poison even a majority of that body by douceurs of office for themselves or friends. From causes like this both Montesquieu and Hume have predicted the decline of the British government into that of an absolute one; but the liberties of this country, it is probable if this system is adopted, will be strangled in their birth; for whenever the executive and senate can destroy the independence of the majority in the house of representatives then where is your security?—They are so intimately connected, that their interests will be one and the same; and will the slow increase of numbers be able to afford a repelling principle? but you are told to adopt this government first, and you will always be able to alter it afterwards; this would be first submitting to be slaves and then taking care of your liberty; and when your chains are on, then to act like freemen.

Complete acts of legislation, which are to become the supreme law of the land, ought to be the united act of all the branches of government; but there is one of the most important duties may be managed by the senate and executive alone, and to have all the force of the law paramount without the aid or interference of the house of representatives; that is the power of making treaties. This power is a very important one, and may be exercised in various ways, so as to affect your person and property, and even the domain of the nation. By treaties you may defalcate part of the empire; engagements may be made to raise an

army, and you may be transported to Europe, to fight the wars of ambitious princes; money may be contracted for, and you must pay it; and a thousand other obligations may be entered into; all which will become the supreme law of the land, and you are bound by it. If treaties are erroneously or wickedly made who is there to punish—the executive can always cover himself with the plea, that he was advised by the senate, and the senate being a collective body are not easily made accountable for mal-administration. On this account we are in a worse situation than Great-Britain, where they have secured by a ridiculous fiction, the King from accountability, by declaring; that he can do no wrong; by which means the nation can have redress against his minister; but with us infallibility pervades every part of the system, and neither the executive nor his council, who are a collective body, and his advisers, can be brought to punishment for mal-administration.

1. See CC:286.
2. Thorpe, III, 1687.

345. Alfred

Philadelphia Independent Gazetteer, 13 December¹

To the *real* Patriots of America.

The history of mankind teacheth us how *sudden* and easy the transition is from *liberty* to a state of *slavery*. The *Romans*, the bravest people the world ever saw, after all their struggles and contentions, found themselves under the absolute direction of a *Nero*, a *Caligula*, a *Tiberius*, and a *Domitian*.

Governments, as they are the workmanship of *man*, so they partake of the changeableness of *his* nature; but the changes which happen, have been more frequently from *liberty* to *slavery*, than from slavery to liberty. When once a community are fast bound in chains and in misery, there *must* be great efforts, and the effusion of much blood, to liberate them from their wretched condition.

America is *now* free—she now enjoys a greater portion of political liberty than any other country under heaven. How long she may continue so, depends entirely upon her own *caution* and *wisdom*. If she would look to herself more, and to Europe less, I am persuaded, it would tend to promote her felicity. She possesses all the advantages which characterize a rich country:—rich within herself, she ought the less to regard the politics, the manufactures, and the interests of *distant* nations.

When I look to our situation, climate, extent, soil, and its productions, rivers and ports; when I find I can at this time purchase grain, bread, meat, and other necessaries of life, at as reasonable a rate as in any country; when I see, we are sending great quantities of tobacco,

wheat and flour to England and other parts of the globe, beyond the Atlantic; when I get on the other side of the western mountains, and see an extensive country, which, for its multitude of rivers and fertility of soil, is equal, if not superior, to any other whatever; when I see these things, I cannot be brought to believe that America is in that deplorable, ruined condition which some designing politicians represent; or that we are in a state of anarchy beyond redemption, unless we adopt, without any addition or amendment, the *new* constitution proposed by the late Convention; a constitution which, in my humble opinion, contains the seeds and scions of slavery and despotism.

When the volume of American constitutions first made its appearance in Europe,² we find some of the most eminent political writers of the present age, and the reviewers of literature, full of admiration, and declaring they had never before seen so much *good sense, freedom, and real wisdom* in one publication. Our good friend Doctor *Price* was charmed, and almost prophesied the near approach of the happy days of the millennium. We have lived under these constitutions; and, after the experience of a few years, some among us are ready to *trample* them under their feet, though they have been esteemed, even by our enemies, as "*pearls of great price.*"

Let us not, ye lovers of freedom, be rash and hasty—Perhaps the real evils we labor under, do not arise from these systems—There may be many other causes, to which our misfortunes may be properly attributed—Read the American constitutions, and you will find our essential rights and privileges well guarded and secured. May not *our manners* be the source of our national evils? May not our attachment to foreign trade increase them? Have we not acted imprudently in exporting almost all our gold and silver for foreign luxuries? It is *now* acknowledged that we have not a sufficient quantity of the precious metals to answer the various purposes of government and commerce; and without a breach of charity, it may be said that this deficiency arises from the want of public virtue, in preferring private interest to every other consideration.

If the states had in any tolerable degree been able to answer the requisitions of Congress; if the continental treasury had been so far assisted, as to have enabled us to pay the interest of our foreign debt, possibly we should have heard little, very little about a new system of government. It is a just observation that in modern times, *money* does every thing. If a government can command this unum necessarium from a certain revenue, it may be considered as wealthy and respectable; if not, it will lose its dignity, become inefficient and contemptible. But cannot we regulate our finances, and lay the foundations for a per-

manent, certain revenue, without undoing all that we have done, without making an entire new government? The most wise and philosophic characters have bestowed on our *old systems* the highest encomiums. Are we sure this new political phenomenon will not fail? If it should fail, is there not a great probability, *that our last state will be worse than the first?* Orators may declaim on the badness of the times as long as they please, but I must tell them that the want of *public virtue, and the want of money*, are two of the principal sources of our present grievances; and if we are under the pressure of these wants, it ought to teach us *frugality*—to adopt a frugal administration of public affairs.

It has been said that the civil list expences of the several states, have *enormously* exceeded what they formerly were prior to the late revolution. Will the new system, which really comprehends an imperium in imperiis, be administered at a less expence, than we now experience? Can we create *new offices* without an accumulation of expences? Shall we enjoy a greater degree of political freedom and happiness under the proposed plan? If *these* and other advantages are not quite evident, we ought to be extremely cautious, how we change our condition. Systems may be very specious in theory; but fail us in practice. Government is a science which consists more in experience than in notional knowledge. What will suit the different manners, habits, and interests, of a wide extended country like America, can only be known by an *experiment*; and if that should fail, our liberties might fail with it. Cannot we be a number of confederated states, confederated for the purpose of defence and commerce, without erecting a fabric, more like *an empire*, than *a republic?* Empires are considered as despotic, and is there no danger of despotism in the establishment of *one* so great and complicated as the American will be?

Most liberal authors would dissuade us from so great and dangerous an experiment,—I shall conclude at present, with a quotation from^(a) one of them; “Vast empires are in many respects unnatural: but particularly in this, that be they ever *so well constituted*, THE AFFAIRS OF THE MANY *must, in such governments* TURN UPON A FEW; and the relation be less sensible, and in a manner lost between the magistrate and people, *in a body so unwieldy in its limbs*, and whose members lie so remote from one another, and distant from the head. ’Tis in such bodies as these that *strong factions* are aptest to engender. The associating spirits, for want of exercise, form new movements, and seek a narrower sphere of activity, when they want action in a greater. Thus we have *wheels within wheels*, and in some national constitutions, notwithstanding the *absurdity* in politics, we have one empire within another.”

(a) *The Characteristics*.³

1. Reprinted: *New York Morning Post*, 21 December; *New York Journal*, 25 December; *Boston American Herald*, 31 December.

2. A reference to *The Constitutions of the Several Independent States of America . . .* (Philadelphia, 1781) (Evans 17390). This volume, "Published by order of Congress," was reprinted in Boston in 1785 and in New York in 1786.

3. Anthony Ashley Cooper, 3rd Earl of Shaftesbury, *Characteristicks of Men, Manners, Opinions, Times* (3 vols., London, 1737), I, Treatise II, part III, section II, 113-14. Treatise II was first published in 1709, as *Sensus Communis: An Essay on the Freedom of Wit and Humour*. . . .

346. James Madison to Archibald Stuart New York, 14 December¹

I was yesterday favored with yours of the 2d. inst:² and am particularly obliged by the accuracy and fulness of its communications. The mutability of the Legislature on great points has been too frequently exemplified within my own observation, for any fresh instance of it to produce much surprize. The only surprize I feel at the last steps taken with regard to the new Constitution,³ is that it does not strike the well meaning adversaries themselves with the necessity of some anchor for the fluctuations which threaten shipwreck to our liberty. I am persuaded that the scheme of amendments is pursued by some of its patrons at least, with the most patriotic & virtuous intentions. But I am equally persuaded that it is pregnant with consequences, which they fail to bring into view. The vote of Virga. on that subject, will either dismember the Union, or reduce her to a dilemma as mortifying to her pride, as it will be injurious to her foresight. I verily believe that if the patrons of this scheme were to enter into an explicit & particular communication with each other, they wd find themselves as much at variance in detail as they are agreed in the general plan of amendments. Or if they could agree at all it would be only on a few points of very little substance, and which would not comprehend the objections of most weight in other States. It is impossible indeed to trace the progress and tendency of this fond experiment without perceiving difficulty and danger in every Stage of it.

We have received neither confirmation nor contradiction of the Reports concerning war between G.B. and France. The Dutch are prostrate before the prussian arms. The follies and misfortunes on the other side of the Atlantic ought to be lessons of wisdom to this side. I fear we shall not derive from ym. the profit of any sort, which they are calculated to afford us.

We have no Congs as yet; nor any increase of the materials for one. If one were formed, it would only perhaps make the nakedness of the federal situation more conspicuous. The contributions to the Treasury

are every where failing. Massts. I am told has lately taken some resolution which effectually diverts the stream to some of her internal purposes.⁴

I perceive by the newspapers that Delaware has decided unanimously in favor of the new Constitution. Penna. has not yet decided. No delay however will diminish the great majority which are on the affirmative side. The Convention of New Jersey, is meeting or actually met. The vote there will be nearly if not quite unanimous. That of Connecticut will succeed, and will pretty certainly make four ninths of the requisite number. The same cause which has instituted & countenanced the opposition in Virga. excites it in Massts. In one respect there is a remarkable difference. In Virginia we see men equally respectable in every point of character & marshalled in opposition to each other. In Massts. almost all the intelligent & considerable people are on the side of the new Government. The Governor⁵ & the late Govr.⁶ though rivals & enemies, the Judges and the Bar—the men of letters—the clergy and all the other learned professions, with that part of the Society which has the greatest interest in good Government, are with but few exceptions in favor of the plan as it stands. The weight of this description of friends, seems to countenance the assurance which that side professes, of success.

[P.S.] I think I have recd. ye letter which you suppose had miscarried

1. RC, Misc. Coll., CSmH.

2. Rutland, *Madison*, X, 290-93.

3. For the Virginia legislature's actions calling a state convention, see CC:328, note 9.

4. On 19 November the Massachusetts General Court resolved to pay much of the state's civil list from part of the revenue previously earmarked for Massachusetts' quota of the continental requisition of 1786 (*Resolves of the General Court . . .* [17 October-23 November 1787] [Boston, 1787], 77).

5. John Hancock.

6. James Bowdoin.

347. Publius: The Federalist 22 New York Packet, 14 December

Alexander Hamilton wrote this essay, which was reprinted in the *New York Independent Journal*, 15 December, and the *New York Daily Advertiser*, 17, 18 December.

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

The FOEDERALIST, No. 22.
To the People of the State of New-York.

In addition to the defects already enumerated in the existing Fœderal system, there are others of not less importance, which concur in ren-

dering it altogether unfit for the administration of the affairs of the Union.

The want of a power to regulate commerce is by all parties allowed to be of the number. The utility of such a power has been anticipated under the first head of our inquiries; and for this reason as well as from the universal conviction entertained upon the subject, little need be added in this place. It is indeed evident, on the most superficial view, that there is no object, either as it respects the interests of trade or finance that more strongly demands a Fœderal superintendence. The want of it has already operated as a bar to the formation of beneficial treaties with foreign powers; and has given occasions of dissatisfaction between the States. No nation acquainted with the nature of our political association would be unwise enough to enter into stipulations with the United States, by which they conceded privileges of any importance to them, while they were apprised that the engagements on the part of the Union, might at any moment be violated by its members; and while they found from experience that they might enjoy every advantage they desired in our markets, without granting us any return, but such as their momentary convenience might suggest. It is not therefore to be wondered at, that Mr. Jenkinson in ushering into the House of Commons a bill for regulating the temporary intercourse between the two countries, should preface its introduction by a declaration that similar provisions in former bills had been found to answer every purpose to the commerce of Great Britain, & that it would be prudent to persist in the plan until it should appear whether the American government was likely or not to acquire greater consistency.^(a)

Several States have endeavoured by separate prohibitions, restrictions and exclusions, to influence the conduct of that kingdom in this particular; but the want of concert, arising from the want of a general authority, and from clashing, and dissimilar views in the States, has hitherto frustrated every experiment of the kind; and will continue to do so as long as the same obstacles to an uniformity of measures continue to exist.

The interfering and unneighbourly regulations of some States, contrary to the true spirit of the Union, have in different instances given just cause of umbrage and complaint to others; and it is to be feared that examples of this nature, if not restrained by a national controul, would be multiplied and extended till they became not less serious sources of animosity and discord, than injurious impediments to the intercourse between the different parts of the confederacy. "The commerce of the German empire,^(b) is in continual trammels from the multiplicity of the duties which the several Princes and States exact upon the merchan-

dizes passing through their territories; by means of which the fine streams and navigable rivers with which Germany is so happily watered, are rendered almost useless." Though the genius of the people of this country might never permit this description to be strictly applicable to us, yet we may reasonably expect, from the gradual conflicts of State regulations, that the citizens of each, would at length come to be considered and treated by the others in no better light than that of foreigners and aliens.

The power of raising armies, by the most obvious construction of the articles of the confederation, is merely a power of making requisitions upon the States for quotas of men. This practice, in the course of the late war, was found replete with obstructions to a vigorous and to an economical system of defence. It gave birth to a competition between the States, which created a kind of auction for men. In order to furnish the quotas required of them, they outbid each other, till bounties grew to an enormous and insupportable size. The hope of a still further increase afforded an inducement to those who were disposed to serve to procrastinate their enlistment; and disinclined them to engaging for any considerable periods. Hence slow and scanty levies of men in the most critical emergencies of our affairs—short enlistments at an unparalleled expence—continual fluctuations in the troops, ruinous to their discipline, and subjecting the public safety frequently to the perilous crisis of a disbanded army—Hence also those oppressive expedients for raising men which were upon several occasions practised, and which nothing but the enthusiasm of liberty would have induced the people to endure.

This method of raising troops is not more unfriendly to economy and vigor, than it is to an equal distribution of the burthen. The States near the seat of war, influenced by motives of self preservation, made efforts to furnish their quotas, which even exceeded their abilities, while those at a distance from danger were for the most part as remiss as the others were diligent in their exertions. The immediate pressure of this inequality was not in this case, as in that of the contributions of money, alleviated by the hope of a final liquidation. The States which did not pay their proportions of money, might at least be charged with their deficiencies; but no account could be formed of the deficiencies in the supplies of men. We shall not, however, see much reason to regret the want of this hope, when we consider how little prospect there is, that the most delinquent States will ever be able to make compensation for their pecuniary failures. The system of quotas and requisitions, whether it be applied to men or money, is in every view a system of imbecility in the union, and of inequality and injustice among the members.

The right of equal suffrage among the States is another exceptionable part of the confederation. Every idea of proportion, and every rule of fair representation conspire to condemn a principle, which gives to Rhode-Island an equal weight in the scale of power with Massachusetts, or Connecticut, or New-York; and to Delaware, an equal voice in the national deliberations with Pennsylvania or Virginia, or North-Carolina. Its operation contradicts that fundamental maxim of republican government, which requires that the sense of the majority should prevail. Sophistry may reply, that sovereigns are equal, and that a majority of the votes of the States will be a majority of confederated America. But this kind of logical legerdemain will never counteract the plain suggestions of justice and common sense. It may happen that this majority of States is a small minority of the people of America;^(c) and two thirds of the people of America, could not long be persuaded, upon the credit of artificial distinctions and syllogistic subtleties, to submit their interests to the management and disposal of one third. The larger States would after a while revolt from the idea of receiving the law from the smaller. To acquiesce in such a privation of their due importance in the political scale, would be not merely to be insensible to the love of power, but even to sacrifice the desire of equality. It is neither rational to expect the first, nor just to require the last—the smaller States considering how peculiarly their safety and welfare depend on union, ought readily to renounce a pretension; which, if not relinquished would prove fatal to its duration.

It may be objected to this, that not seven but nine States, or two thirds of the whole number must consent to the most important resolutions; and it may be thence infered, that nine States would always comprehend a majority of the inhabitants of the Union. But this does not obviate the impropriety of an equal vote between States of the most unequal dimensions and populousness; nor is the inference accurate in point of fact; for we can enumerate nine States which contain less than a majority of the people;^(d) and it is constitutionally possible, that these nine may give the vote. Besides there are matters of considerable moment detainable by a bare majority; and there are others, concerning which doubts have been entertained, which if interpreted in favor of the sufficiency of a vote of seven States, would extend its operation to interests of the first magnitude. In addition to this, it is to be observed, that there is a probability of an increase in the number of States, and no provision for a proportional augmentation of the ratio of votes.

But this is not all; what at first sight may seem a remedy, is in reality a poison. To give a minority a negative upon the majority (which is always the case where more than a majority is requisite to a decision) is

in its tendency to subject the sense of the greater number to that of the lesser number. Congress from the non-attendance of a few States have been frequently in the situation of a Polish Diet, where a single VOTE has been sufficient to put a stop to all their movements. A sixtieth part of the Union, which is about the proportion of Delaware and Rhode-Island, has several times been able to oppose an intire bar to its operations. This is one of those refinements which in practice has an effect, the reverse of what is expected from it in theory. The necessity of unanimity in public bodies, or of something approaching towards it, has been founded upon a supposition that it would contribute to security. But its real operation is to embarrass the administration, to destroy the energy of government, and to substitute the pleasure, caprice or artifices of an insignificant, turbulent or corrupt junto, to the regular deliberations and decisions of a respectable majority. In those emergencies of a nation, in which the goodness or badness, the weakness or strength of its government, is of the greatest importance, there is commonly a necessity for action. The public business must in some way or other go forward. If a pertinacious minority can controul the opinion of a majority respecting the best mode of conducting it; the majority in order that something may be done, must conform to the views of the minority; and thus the sense of the smaller number will over-rule that of the greater, and give a tone to the national proceedings. Hence tedious delays—continual negotiation and intrigue—contemptible compromises of the public good. And yet in such a system, it is even happy when such compromises can take place: For upon some occasions, things will not admit of accommodation; and then the measures of government must be injuriously suspended or fatally defeated. It is often, by the impracticability of obtaining the concurrence of the necessary number of votes, kept in a state of inaction. Its situation must always favour of weakness—sometimes border upon anarchy.

It is not difficult to discover that a principle of this kind gives greater scope to foreign corruption as well as to domestic faction, than that which permits the sense of the majority to decide; though the contrary of this has been presumed. The mistake has proceeded from not attending with due care to the mischiefs that may be occasioned by obstructing the progress of government at certain critical seasons. When the concurrence of a large number is required by the constitution to the doing of any national act, we are apt to rest satisfied that all is safe, because nothing improper will be likely *to be done*; but we forget how much good may be prevented, and how much ill may be produced, by the power of hindering the doing what may be necessary, and of keep-

ing affairs in the same unfavorable posture in which they may happen to stand at particular periods.

Suppose for instance we were engaged in a war, in conjunction with one foreign nation against another. Suppose the necessity of our situation demanded peace, and the interest or ambition of our ally led him to seek the prosecution of the war, with views that might justify us in making separate terms. In such a state of things, this ally of ours would evidently find it much easier by his bribes and intrigues to tie up the hands of government from making peace, where two thirds of all the votes were requisite to that object, than where a simple majority would suffice. In the first case he would have to corrupt a smaller number; in the last a greater number. Upon the same principle it would be much easier for a foreign power with which we were at war, to perplex our councils and embarrass our exertions. And in a commercial view we may be subjected to similar inconveniences. A nation, with which we might have a treaty of commerce, could with much greater facility prevent our forming a connection with her competitor in trade; tho' such a connection should be ever so beneficial to ourselves.

Evils of this description ought not to be regarded as imaginary. One of the weak sides of republics, among their numerous advantages, is that they afford too easy an inlet to foreign corruption. An hereditary monarch, though often disposed to sacrifice his subjects to his ambition, has so great a personal interest in the government, and in the external glory of the nation, that it is not easy for a foreign power to give him an equivalent for what he would sacrifice by treachery to the State. The world has accordingly been witness to few examples of this species of royal prostitution, though there have been abundant specimens of every other kind.

In republics, persons elevated from the mass of the community, by the suffrages of their fellow-citizens, to stations of great pre-eminence and power, may find compensations for betraying their trust, which to any but minds animated and guided by superior virtue, may appear to exceed the proportion of interest they have in the common stock, and to over-balance the obligations of duty. Hence it is that history furnishes us with so many mortifying examples of the prevalency of foreign corruption in republican governments. How much this contributed to the ruin of the ancient commonwealths has been already delineated. It is well known that the deputies of the United Provinces have, in various instances been purchased by the emissaries of the neighbouring kingdoms. The Earl of Chesterfield (if my memory serves me right) in a letter to his court, intimates that his success in an important negotiation, must depend on his obtaining a Major's commission for one of those

deputies. And in Sweden, the parties were alternately bought by France and England, in so barefaced and notorious a manner that it excited universal disgust in the nation; and was a principal cause that the most limited monarch in Europe, in a single day, without tumult, violence, or opposition, became one of the most absolute and uncontrouled.

A circumstance, which crowns the defects of the confederation, remains yet to be mentioned—the want of a judiciary power. Laws are a dead letter without courts to expound and define their true meaning and operation. The treaties of the United States to have any force at all, must be considered as part of the law of the land. Their true import as far as respects individuals, must, like all other laws, be ascertained by judicial determinations. To produce uniformity in these determinations, they ought to be submitted in the last resort, to one SUPREME TRIBUNAL. And this tribunal ought to be instituted under the same authority which forms the treaties themselves. These ingredients are both indispensable. If there is in each State, a court of final jurisdiction, there may be as many different final determinations on the same point, as there are courts. There are endless diversities in the opinions of men. We often see not only different courts, but the Judges of the same court differing from each other. To avoid the confusion which would unavoidably result from the contradictory decisions of a number of independent judicatories, all nations have found it necessary to establish one court paramount to the rest—possessing a general superintendance, and authorised to settle and declare in the last resort, an uniform rule of civil justice.

This is the more necessary where the frame of the government is so compounded, that the laws of the whole are in danger of being contravened by the laws of the parts. In this case if the particular tribunals are invested with a right of ultimate jurisdiction, besides the contradictions to be expected from difference of opinion, there will be much to fear from the bias of local views and prejudices, and from the interference of local regulations. As often as such an interference was to happen, there would be reason to apprehend, that the provisions of the particular laws might be preferred to those of the general laws; for nothing is more natural to men in office, than to look with peculiar deference towards that authority to which they owe their official existence.

The treaties of the United States, under the present constitution, are liable to the infractions of thirteen different Legislatures, and as many different courts of final jurisdiction, acting under the authority of those Legislatures. The faith, the reputation, the peace of the whole union, are there continually at the mercy of the prejudices, the passions, and the interests of every member of which it is composed. Is it possible that foreign nations can either respect or confide in such a government? Is it

possible that the People of America will longer consent to trust their honor, their happiness, their safety, on so precarious a foundation?

In this review of the Confederation, I have confined myself to the exhibition of its most material defects; passing over those imperfections in its details, by which even a great part of the power intended to be conferred upon it has been in a great measure rendered abortive. It must be by this time evident to all men of reflection, who can divest themselves of the prepossessions of preconceived opinions, that it is a system so radically vicious and unsound, as to admit not of amendment but by an entire change in its leading features and characters.

The organization of Congress, is itself utterly improper for the exercise of those powers which are necessary to be deposited in the Union. A single Assembly may be a proper receptacle of those slender, or rather fettered authorities, which have been heretofore delegated to the fœderal head; but it would be inconsistent with all the principles of good government, to intrust it with those additional powers which even the moderate and more rational adversaries of the proposed constitution admit ought to reside in the United States. If that plan should not be adopted; and if the necessity of union should be able to withstand the ambitious aims of those men, who may indulge magnificent schemes of personal aggrandizement from its dissolution; the probability would be, that we should run into the project of conferring supplementary powers upon Congress as they are now constituted; and either the machine, from the intrinsic feebleness of its structure, will moulder into pieces in spite of our ill-judged efforts to prop it; or by successive augmentations of its force and energy, as necessity might prompt, we shall finally accumulate in a single body, all the most important prerogatives of sovereignty; and thus entail upon our posterity, one of the most execrable forms of government that human infatuation ever contrived. Thus we should create in reality that very tyranny, which the adversaries of the new constitution either are, or affect to be solicitous to avert.

It has not a little contributed to the infirmities of the existing fœderal system, that it never had a ratification by the PEOPLE. Resting on no better foundation than the consent of the several Legislatures, it has been exposed to frequent and intricate questions concerning the validity of its powers; and has in some instances given birth to the enormous doctrine of a right of legislative repeal. Owing its ratification to the law of a State, it has been contended, that the same authority might repeal the law by which it was ratified. However gross a heresy it may be, to maintain that a *party* to a *compact* has a right to revoke that *compact*, the doctrine itself has had respectable advocates. The possibility of a question of this nature, proves the necessity of laying the foundations of our

national government deeper than in the mere sanction of delegated authority. The fabric of American Empire ought to rest on the solid basis of THE CONSENT OF THE PEOPLE. The streams of national power ought to flow immediately from that pure original fountain of all legitimate authority.

(a) *This as nearly as I can recollect was the sense of his speech in introducing the last bill.*

(b) *Encyclopedie article empire.*¹

(c) *New-Hampshire, Rhode-Island, New-Jersey, Delaware, Georgia, South-Carolina and Maryland, are a majority of the whole number of the States, but they do not contain one third of the people.*

(d) *Add New-York and Connecticut, to the foregoing seven, and they will still be less than a majority.*

1. Denis Diderot and Jean LeRond d'Alembert, eds., *Encyclopédie, ou Dictionnaire Raisonné des Sciences, des Arts et des Métiers* . . . (17 vols., Paris and Neufchastel, 1751-1765), V, 583.

**348. John Wendell to Elbridge Gerry
Portsmouth, 15 December¹**

I am hon[ore]d with your Favour in which you are pleased to mention yr having forwarded my Letter to Mr Coates for which I am much Obliged-

I have been so unlucky as being from home in the Country I have not had an Oppertunity of Seeing your Observations on the new proposed Constitution²-but I admire & respect your Fortitude & Honesty in defending your private Opinion on it and think your fellow Citizens after they have fully considered for themselves must think otherways than as they are now in a Manner *taught* to believe witht exercising their own Judgments, I observe many Capital Errors in it which must be mended in a short Time, but I am decidedly for adopting it with all its Imperfections from believing: that we cannot long exisst as a Nation under the present chaotic Form; and that there is no probability of ever obtaining Another less Exceptionble than the proposed-It is plain that the Representation of the States are unequal, the Institutions of Inferior Courts will be burthensome, The order of the Cincinnati may obtain too great an Interest & Influence, & may engross so much of the publick Employments as may endanger the Introduction of a standing Army in ye Time of Peace-but these My dear Friend, are Anticipations we must not give Way to, but rather adopt the Sentiment of Cicero-to Emulate wth each other *Ne quid Detrimenti Respublica capiat*, I honour yr Integrity, coincide with you that there must be an alteration made in it Here after, but *Necessity fatal Necessity* obliges me to determine in its

Favr: if it was only to obtain the Institu[tion] of a Revenue to support public Credit or *we are Undone* without Benefit of *Clergy*—I write Currente Calamo and when I have seen your Observation[s] I will do myself the Honr to write you again

1. RC, Gerry-Townsend Papers, NN. Wendell is replying to Gerry's letter of 16 November (CC:266).

2. For Gerry's objections, dated 18 October and published in the *Massachusetts Centinel* on 3 November, see CC:227-A.

349. Antoine de la Forest to Comte de Montmorin New York, 15 December¹

Since the account which I had the honor of giving to Mgr. le Mal. de Castries of the different opinions which divide the people of the United States On the plan of the new general Government,² nine legislatures have voted in Succession for the convening of a Special assembly of the people of their respective States. All have purely and Simply Submitted the proposed constitution to the free consideration of their assembly, by abstaining from giving their opinion. The legislature of virginia is the Only one which permitted Itself to show indirectly its desire that this plan not be accepted, by voting for funds to *defray the expenses of the commissioners who could be sent back to a new general assembly of the states in order to make alterations in the constitution.*³ It is not doubted that all the other legislatures will also appoint Special assemblies at their first Session. That of Rhode island however, where the motion to do so was made last october, has rejected it provisionally;⁴ but it will probably return to it at its next Session. Moreover people seem hardly to be concerned with what that State too weak to resist the wishes of the others will do.

The Special assembly of Newjersey is now meeting and it is known that it is almost unanimously disposed to adopt the new government. That of Delaware has the merit of having ratified it first on the 6. of this month and that of Pensylvania on the 12. There were some violent debates in the Special assembly of that State; one third of the deputies of the people, almost all belonging to the western counties of Pensylvania, are opposing it with all their powers. It is not feared however that disturbances will result in these counties, because the Electors themselves are almost equally divided on the question. There is reason to believe, from reports which leave little doubt, that the Special assemblies of New Hampshire, Massachussets, Connecticut, South Carolina and georgia will be decidedly in favor of the new constitution. People thus already flatter themselves to see it ratified by 8. States. Only one more will then be needed in order for the new Government to go into

effect. It is not yet known what the Special assemblies of Rhode island, Newyork, North Carolina, Maryland and virginia will decide.

In these last two States there is a powerful party against the adoption of the constitution in its present form. It desires that the questions of commerce and navigation be decided in the house of representatives by the Vote of at least two-thirds of the delegates. It fears that the interest of the five Southern States will always be Sacrificed on these two matters to that of the seven [sic] others. It observes that since the peace the seafaring states have made constant efforts to draw closer to England so that their Ships would be admitted into the English Antilles. It also observes that these States came close to compromising the rest of the Southern ones in the negotiation relative to the Mississipi in order to obtain some concessions from Spain. It is persuaded that the States of new England, Newyork, and Pensylvania, assisted by those of Newjersey and Delaware, whose Vote they often carry along, want to obtain an act of navigation which would give them, to the exclusion of foreigners, the transport of Southern goods; this would result in an increase in the price of freight very prejudicial to the South. On the other hand it does not doubt that the seafaring States are seeking to conclude a treaty of Commerce with England from which they would obtain all the advantages and from which the Southern States would have all the disadvantages; because people are convinced that great Britain will entirely change its Policy in regard to the United States, as soon as the latter have the power to prohibit its merchandise if it insists on an exclusive navigation. It knows that the seafaring states want to have a navy to protect their merchant marine; those of the South observe that [by supporting a navy] they would contribute to an expense from which they would receive no advantage since they are Solely farmers. These local views will have no effect at all on Georgia and South Carolina, which are too persuaded of their weakness and the disorder of their affairs not to move towards their principal object—to secure the *protection of the entire body of the union*. But these views operate in Maryland, Virginia and even North Carolina. It is hoped nevertheless that these views will have less force in the popular assemblies of these States than in the minds of the leading citizens who are at the head of the opposition there. The latter moreover have only to acknowledge that their objections are entirely founded on these Secret apprehensions; they have the same motives as all those who disparage the constitution and as these motives have seemed insufficient to the assemblies of eight other States, they will not be able to have much influence on those of these three States.

As for the State of Newyork, My Lord, it has no interest which is able to thwart the adoption of the new Government. But the preponderance

of its civil officers until now have prevailed over the *federalist* party and the former have personal motives for preserving the complete and full direction of the affairs of the state for as long as possible. The application of money arising from [state] import duties to the funding of public securities on which they Speculate is of major importance for their fortunes. Much more condemnable views above all influence the conduct of the legislature of Rhode island entirely composed of debtor farmers who want to *free* themselves without however *paying*. They Know that the new Government would put all iniquities of this type to the torch.

Two questions, My Lord, present themselves on which very few people here agree--If nine Special assemblies ratify the proposed constitution, it would be put into effect, but How will they induce the four other States to reconsider the refusal of their assemblies? On the other hand--if this ratification is made only by eight States, the constitution fails to become law, it is necessary to begin everything again; how will the five other States induce the others to consent to alterations? would one find again that moment of agreement which so happily prevailed in the general assembly of the States? Many American politicians hope that some major impetus, such as a foreign war, will force all minds towards a reconciliation.

I hope, My Lord, that you will not frown upon these long details. The progress of the new Government of the United States interests us as much from a Commercial point of view as from a political one. And M. le Mal. de Castries has ordered me to Follow it with attention.

1. RC (Tr), Affaires Étrangères, Correspondance Consulaires, BI 909, New York, ff. 294-97, Archives Nationales, Paris, France.

2. See Forest's letter of 28 September to the Minister of Marine (CC:105). Castries resigned as Minister of Marine and was replaced by Montmorin on 25 August.

3. For the Virginia resolutions of 30 November, see CC:328, note 9.

4. On 3 November the Rhode Island legislature rejected a resolution calling a state convention.

350. Virginia Pamphlet Anthologies Richmond, c. 15 December

Three pamphlet anthologies were printed in Richmond in November and December 1787. One, and perhaps another, was printed by Augustine Davis of the *Virginia Independent Chronicle*, while a third was published by John Dixon of the *Virginia Gazette and Independent Chronicle*.

The first pamphlet--no longer extant--appeared early in November. On 9 November Archibald Stuart, an Augusta County delegate to the Virginia House of Delegates, reported to James Madison that "the Nos. written by an American Citizen have had good effects & with some Other pieces of Merit have been printed in a small pamphlet for the information of the people" (Rutland, *Madison*, X, 245. See also Madison to Tench Coxe, 3 January 1788, *ibid.*, 349.). Madison had sent "An American Citizen" I-III to Joseph Jones, a King George County member

of the House, and on 7 November the essays were published in Augustine Davis' *Virginia Independent Chronicle* (see Jones to Madison, 29 October, CC:209).

The second pamphlet was published by 15 December. On that day, Hardin Burnley, an Orange County delegate to the House, informed Madison that "A Collection of pieces on the federal Constitution is just published by Davis" (Rutland, *Madison*, X, 328). Davis' sixty-four-page pamphlet, entitled *Various Extracts on the Federal Government, Proposed by the Convention Held at Philadelphia* (Evans 20824), contains: "An American Citizen" I-IV (CC:100-A, 109, 112, 183-A); "Centinel" I-II (CC:133, 190); James Wilson's speech of 6 October (CC:134); Richard Henry Lee's letter to Governor Edmund Randolph, 16 October (CC:325); Elbridge Gerry's letter to the Massachusetts General Court, 18 October (CC:227-A); George Mason's objections to the Constitution (CC:276-B); and Benjamin Franklin's 17 September speech in the Constitutional Convention (CC:77-A). Except for Lee's letter, all of these items had been reprinted in the *Virginia Independent Chronicle* between 24 October and 5 December. This second pamphlet was apparently an expansion of the "small pamphlet" described by Stuart.

The third pamphlet was printed after 15 December. After mentioning Davis' pamphlet, Burnley reported that "Another Collection is now on foot by Mr. Dixon. This I shall bring to Orange with me & shall be submitted to your perusal." Only portions of what is apparently Dixon's pamphlet have been found. Eight pages (pp. 3-10), preserved in the Virginia Historical Society, contain Mason's objections, Gerry's letter, and the first part of *The Federalist* I. Four other pages (pp. 13-16), consisting of *The Federalist* II-III, were cited by Paul Leicester Ford in his *Bibliography and Reference List* (1896). Pages 11-12 (not located) probably concluded *The Federalist* I.

351. A Landholder VII Connecticut Courant, 17 December

The arguments in this essay, which defends the constitutional provision prohibiting religious tests for officeholding, were reiterated by the "Landholder" in two unnumbered essays published in the Hartford *American Mercury* on 28 January and 10 March 1788. For these two items and the replies to them by Antifederalist William Williams of Lebanon, Conn., see RCS:Conn., 587-88, 588-90, 593.

"Landholder" VII, with slight variations, was also printed in the *American Mercury* on 17 December. It was reprinted in the *Norwich Packet*, 27 December; *Connecticut Gazette*, 28 December; Northampton *Hampshire Gazette*, 16 January 1788; and *Maryland Journal*, 18 January.

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

To the Landholders and Farmers.

I have often admired the spirit of candour, liberality, and justice, with which the Convention began and completed the important object of their mission. "In all our deliberations on this subject," say they, "we kept steadily in our view, that which appears to us the greatest interest of every true American, the consolidation of our union, in which is involved our prosperity, felicity, safety, perhaps our national existence. This important consideration, seriously and deeply impressed on our

minds, led each state in the Convention to be less rigid on points of inferior magnitude, than might otherwise have been expected; 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.”¹

Let us, my fellow citizens, take up this constitution with the same spirit of candour and liberality; consider it in all its parts; consider the important advantages which may be derived from it, and the fatal consequences which will probably follow from rejecting it. If any objections are made against it, let us obtain full information on the subject, and then weigh these objections in the balance of cool impartial reason. Let us see, if they be not wholly groundless; But if upon the whole they appear to have some weight, let us consider well, whether they be so important, that we ought on account of them to reject the whole constitution. Perfection is not the lot of human institutions; that which has the most excellencies and fewest faults, is the best that we can expect.

Some very worthy persons, who have not had great advantages for information, have objected against that clause in the constitution, which provides, that *no religious Test shall ever be required as a qualification to any office or public trust under the United States*. They have been afraid that this clause is unfavourable to religion. But, my countrymen, the sole purpose and effect of it is to exclude persecution, and to secure to you the important right of religious liberty. We are almost the only people in the world, who have a full enjoyment of this important right of human nature. In our country every man has a right to worship God in that way which is most agreeable to his own conscience. If he be a good and peaceable citizen, he is liable to no penalties or incapacities on account of his religious sentiments; or in other words, he is not subject to persecution.

But in other parts of the world, it has been, and still is, far different. Systems of religious error have been adopted, in times of ignorance. It has been the interest of tyrannical kings, popes, and prelates, to maintain these errors. When the clouds of ignorance began to vanish, and the people grew more enlightened, there was no other way to keep them in error, but to prohibit their altering their religious opinions by severe persecuting laws. In this way persecution became general throughout Europe. It was the universal opinion that one religion must be established by law; and that all, who differed in their religious opinions, must suffer the vengeance of persecution. In pursuance of this opinion, when popery was abolished in England, and the church of England was established in its stead, severe penalties were inflicted upon all who dissented from the established church. In the time of the civil wars, in the reign of

Charles I. the presbyterians got the upper hand, and inflicted legal penalties upon all who differed from them in their sentiments respecting religious doctrines and discipline. When Charles II. was restored, the church of England was likewise restored, and the presbyterians and other dissenters were laid under legal penalties and incapacities. It was in this reign, that a religious test was established as a qualification for office; that is, a law was made requiring all officers civil and military (among other things) to receive the Sacrament of the Lord's Supper, according to the usage of the church of England, written six months after their admission to office, under the penalty of 500*l.* and disability to hold the office. And by another statute of the same reign, no person was capable of being elected to any office relating to the government of any city or corporation, unless, within a twelvemonth before, he had received the Sacrament according to the rites of the church of England. The pretence for making these severe laws, by which all but churchmen were made incapable of any office civil or military, was to exclude the papists; but the real design was to exclude the protestant dissenters. From this account of test-laws, there arises an unfavourable presumption against them. But if we consider the nature of them and the effects which they are calculated to produce, we shall find that they are useless, tyrannical, and peculiarly unfit for the people of this country.

A religious test is an act to be done, or profession to be made, relating to religion (such as partaking of the sacrament according to certain rites and forms, or declaring one's belief of certain doctrines,) for the purpose of determining, whether his religious opinions are such, that he is admissible to a public office. A test in favour of any one denomination of christians would be to the last degree absurd in the United States. If it were in favour of either congregationalists, presbyterians, episcopations, baptists, or quakers; it would incapacitate more than three fourths of the American citizens for any public office; and thus degrade them from the rank of freemen. There needs no argument to prove that the majority of our citizens would never submit to this indignity.

If any test-act were to be made, perhaps the least exceptionable would be one, requiring all persons appointed to office, to declare, at the time of their admission, their belief in the being of a God, and in the divine authority of the scriptures. In favour of such a test, it may be said, that one who believes these great truths, will not be so likely to violate his obligations to his country, as one who disbelieves them; we may have greater confidence in his integrity. But I answer: His making a declaration of such a belief is no security at all. For suppose him to be an unprincipled man, who believes neither the word nor the being of a God; and to be governed merely by selfish motives; how easy is it for

him to dissemble? how easy is it for him to make a public declaration of his belief in the creed which the law prescribes; and excuse himself by calling it a mere formality? This is the case with the test-laws and creeds in England. The most abandoned characters partake of the sacrament, in order to qualify themselves for public employments. The clergy are obliged by law to administer the ordinance unto them; and thus prostitute the most sacred office of religion; for it is a civil right in the party to receive the sacrament. In that country, subscribing to the thirty-nine articles is a test for admission into holy orders. And it is a fact, that many of the clergy do this; when at the same time, they totally disbelieve several of the doctrines contained in them. In short, test-laws are utterly ineffectual; they are no security at all; because men of loose principles will, by an external compliance, evade them. If they exclude any persons, it will be honest men, men of principle, who will rather suffer an injury, than act contrary to the dictates of their consciences. If we mean to have those appointed to public offices, who are sincere friends to religion; we the people who appoint them, must take care to choose such characters; and not rely upon such cob-web barriers as test-laws are.

But to come to the true principle, by which this question ought to be determined: The business of civil government is to protect the citizen in his rights, to defend the community from hostile powers, and to promote the general welfare. Civil government has no business to meddle with the private opinions of the people. If I demean myself as a good citizen, I am accountable, not to man, but to God, for the religious opinions which I embrace, and the manner in which I worship the supreme being. If such had been the universal sentiments of mankind, and they had acted accordingly, persecution, the bane of truth and nurse of error, with her bloody axe and flaming hand, would never have turned so great a part of the world into a field of blood.

But while I assert the right of religious liberty; I would not deny that the civil power has a right, in some cases, to interfere in matters of religion. It has a right to prohibit and punish gross immoralities and impieties; because the open practice of these is of evil example and public detriment. For this reason, I heartily approve of our laws against drunkenness, profane swearing, blasphemy, and professed atheism. But in this state, we have never thought it expedient to adopt a test-law; and yet I sincerely believe we have as great a proportion of religion and morality, as they have in England, where every person who holds a public office, must be either a saint by law, or a hypocrite by practice. A test-law is the parent of hypocrisy, and the offspring of error and the spirit of persecution. Legislatures have no right to set up an inquisition,

and examine into the private opinions of men. Test-laws are useless and ineffectual, unjust and tyrannical; therefore the Convention have done wisely in excluding this engine of persecution, and providing that no religious test shall ever be required.

1. This quotation is taken from the letter of the President of the Convention to the President of Congress, 17 September (CC:76).

APPENDIX I

The documents printed in Appendix I are, for the most part, widely circulated squibs or fillers. Most of the squibs are either reports on the prospects of ratification in the various states or speculations about the attitudes of one or more persons on the Constitution. Others are reports of events, followed by some partisan commentary about them. Since Federalists controlled most newspapers, the majority of the squibs favor the Constitution or attack its opponents.

Portland Cumberland Gazette, 9 November¹

A gentleman lately from the West-Indies informs, that many persons of property in those islands stand ready to embark for America so soon as a firm and efficient Federal Government shall be established. They have an idea that at present neither their lives or property would be safe among us.

1. Reprinted: *Worcester Magazine*, third week in November; *New York Morning Post*, 1 December; *Gazette of the State of Georgia*, 27 December.

New York Journal, 15 November¹

We learn, by the last evening's Eastern Mail, that the legislature of Rhode-Island adjourned, about ten days since, without officially noticing the new Constitution. No other interesting intelligence was received by this mail.

1. Reprints by 28 November (7): Vt. (1), N.Y. (3), Pa. (2), Md. (1).

Newport Herald, 15 November¹

A sloop laden with cheese, potatoes, &c. the produce of this Northern clime, sailed from Bedford, for Charleston, South-Carolina, and after disposing of her cargo to the best advantage, the charges amounted to £.7 10s. more than the neat proceeds of her whole cargo.—Cyder sold for 2s 6 and potatoes 1s 6 per barrel, cheese, 1d½ per pound.—If dear bought experience has not already convinced the Northern States of a necessity of an energetic Federal Government to control and regulate our trade, that foreigners may not supply our markets, we shall soon be convinced of it to our greater injury.

1. Reprints by 31 December (14): Vt. (1), N.H. (2), Mass. (1), Conn. (4), N.Y. (2), Pa. (3), Ga. (1). This item was also printed in the December issue of the *Philadelphia Columbian Magazine*.

Reports of Benjamin Franklin Signing the Constitution Boston, 19–21 November

On 19 November the Antifederalist Boston *American Herald* printed a poem attacking Benjamin Franklin for signing the Constitution. This poem, which was not reprinted, elicited Federalist poems in the *Massachusetts Gazette*, 20 November, and the *Massachusetts Centinel*, 21 November. By 20 December the *Gazette* poem was reprinted in seven newspapers: N.H. (2), N.Y. (1), Pa. (3), S.C. (1), and the *Centinel* poem was reprinted in six newspapers: N.H. (1), N.Y. (2), Pa. (2), S.C. (1). Four newspapers printed both Federalist poems together: N.Y. (1), Pa. (2), S.C. (1). In 1788 the *Centinel* poem was published in the August issue of the *Philadelphia American Museum*, and was reprinted once each in Maryland, Virginia, and Georgia by 8 November.

Boston American Herald, 19 November

On Dr. FRANKLIN's shedding a TEAR at signing the DEATH-WARRANT OF his COUNTRY'S LIBERTIES.

The worn-out SAGE too full his joy to speak,
The puerile tear stole down his wrinkl'd cheek;
He paused a moment—but alas, too late,
He lent his Signet to his Country's fate,
He grasped the trembling quill and signed his name,
And damn'd the Laurels of his former fame.

Boston, 12th Nov. 1787.

Massachusetts Gazette, 20 November

On Doctor FRANKLIN's shedding tears of extacy at signing that palladium of liberty, the glorious federal system of government.

The god-like sage, revolving in his mind,
How many millions hell-forg'd fetters bind;
With tears of joy, survey'd the precious deed,
Which endless freedom to this clime decreed.
And while his aged hand subscrib'd the same,
He reach'd the zenith of all human fame.

Massachusetts Centinel, 21 November

Mr. PRINTER, It is said Dr. Franklin shed a tear at signing the new Constitution.

The SAGE whom rival nations join to praise,
Whose *lengthen'd span* one patriot scene displays;
Revolving in his spacious mind, the fate
Of millions, toiling in a servile state;
With ardour grasp'd the pen to sign the plan
Which gave HIS COUNTRY ALL the RIGHTS of MAN,
Enough he cry'd—my God, I ask no more!
Excuse my friends a TEAR, I am FOUR SCORE.

Massachusetts Gazette, 20 November¹

The following is a list of the members who withdrew from the late continental convention, previous to the signing of the proposed constitution, viz. Gerry, Strong, Massachusetts-Ellsworth, Connecticut-Yates, Yancey [Lansing], New-York-Martin, Maryland-Randolph, Mason, Virginia.

1. Reprints: *New Hampshire Spy*, 23 November; *Pennsylvania Packet*, 3 December; Baltimore *Maryland Gazette*, 11 December; *Pittsburgh Gazette*, 26 January 1788. Caleb Strong, Oliver Ellsworth, Robert Yates, John Lansing, Jr., and Luther Martin left the Convention early. Elbridge Gerry, Edmund Randolph, and George Mason remained until the end, but refused to sign the Constitution. See also *Massachusetts Centinel*, 21 November, below.

Lansingburgh Northern Centinel, 20 November¹

Extract of a letter from a fellow in Newport, (Rogue-Island) to a gentleman in this town.

“We have nothing new this way but the new constitution—it will not go down *here—nine-tenths* of the people are against it—in MY opinion it is a DAMN’D *impudent* composition, and an *insult* on the *understandings* and *liberty* of the KNOW YE’S.”²

Extract of a letter from a gentleman in Providence, to his friend in Albany.

“It is with pleasure I inform you, that all *honest* men in Rhode-Island, (who, alas, are not very numerous) are anxious for the adoption of the new constitution, knowing it to be the only thing that can extricate us from present distress, and prevent future slavery.”

1. By 27 December, seven newspapers reprinted both items: N.H. (1), Mass. (1), Conn. (1), N.Y. (1), Pa. (1), S.C. (1), Ga. (1). The Providence letter was reprinted three more times in Massachusetts and once more in Connecticut, while the Newport letter was reprinted once in Rhode Island.

2. For “KNOW YE’S,” see CC:263, note 7.

Massachusetts Centinel, 21 November¹

The idea that eight members of The Convention withdrew therefrom, and consequently disapproved of the Constitution, is unjust—Mr. Strong, and Mr. Ellsworth, certainly approve of the Constitution—though obliged by domestick concerns to return home prior to its being signed—and we suppose that to a like cause it was owing, that Messrs. Yates, Yancey and Martin did not affix their signatures to it.

1. This is a response to the *Massachusetts Gazette*, 20 November, above. Yates, Lansing, and Martin opposed the Constitution.

Pennsylvania Gazette, 21 November¹

We have the pleasure of informing the public, that two thirds of the members returned to the Convention of this state are fœderalists, and it is expected that the whole of them will become fœderal, as soon as they hear the objections to the government removed by the gentlemen who have studied it attentively.

We hear that his Excellency General WASHINGTON has consented to represent the county of Fairfax, in Virginia, in the state convention of that commonwealth, which is to take into consideration the new fœderal government.²

It is currently reported that there are only two men in Virginia, who are not in *debt*, to be found among the enemies of the fœderal constitution. Debtors, Speculators in paper, and State demagogues act consistently in opposing it. It will reduce them to a *level* with their fellow citizens, and prevent their thriving any longer by the distresses of their country.

1. The first paragraph was reprinted twenty-one times by 29 December: N.H. (2), Mass. (3), R.I. (2), Conn. (6), N.Y. (4), Md. (2), Ga. (2). The second paragraph was reprinted forty-four times by 31 December: Vt. (1), N.H. (4), Mass. (10), R.I. (3), Conn. (7), N.Y. (8), N.J. (1), Pa. (2), Md. (3), Va. (1), S.C. (2), Ga. (2). The third paragraph was reprinted fifteen times by 13 December: N.H. (3), Mass. (4), R.I. (1), Conn. (4), N.Y. (2), Md. (1). Ten newspapers reprinted all three paragraphs by 7 December: N.H. (1), Mass. (2), R.I. (1), Conn. (3), N.Y. (2), Md. (1).

2. No evidence exists that Washington ever consented to become a delegate to the Virginia Convention.

Pennsylvania Herald, 21 November¹

A correspondent remarks that the confusion which prevails in Europe, will afford a happy opportunity for a deliberate review of the general circumstances of the United States, and the expediency of adopting the plan of government offered to their consideration.

Another correspondent thinks, that the embarrassments of Europe, might be rendered highly advantageous, to this country, if a strong and efficient government were established. The Dutch, who have hitherto been the common carriers of the world, are principal actors in the drama, so that America would have no rival in her marine neutrality, by which she might effectually establish her domestic manufactories, and render the contending nations contributory to her wealth and dignity.

1. By 3 December, eight newspapers reprinted both paragraphs: Mass. (1), Conn. (3), N.Y. (3), N.J. (1). By 18 December, the first paragraph was also reprinted once each in N.H. (1), Pa. (1), Md. (1), Va. (1), while the second paragraph was reprinted once more in Connecticut.

Pennsylvania Packet, 30 November¹

Captain Henry Williams, of Salem, arrived here yesterday from St. Eustatia, having had a passage of 18 days, he informs that it was currently reported there, that Admiral Hood, with 15 sail of British ships of war, had arrived at Barbadoes; that the inhabitants of St. Kitts were in great alarm, and had set 500 negroes at work to fortify Brimstone-Hill—*That the new Constitution lately formed by the General Convention for the Government of the United States, had been received at St. Eustatia, and was read with warm approbation;* and the inhabitants, expecting a revolution in the Dutch government, said they should remove to these States, *if the good government proposed by this constitution should be established.*

1. Reprints by 24 December (21): Vt. (1), N.H. (2), Mass. (7), R.I. (1), Conn. (4), Pa. (2), Md. (2), Va. (2).

Charleston Columbian Herald, 3 December¹

Extract of a letter from Dorchester. S. C.

“I have the pleasure to inform you, that a gold mine of extraordinary richness has been lately discovered, one hundred miles west of the city, by a gentleman of the faculty.—Several experiments, have already been made on the ore, and each process has hitherto proved successful beyond the most sanguine expectation.—It is remarkably ponderous, of a black colour, and exhibits an infinitude of shining particles; & if we may judge from recent experience, will yield seventy-five pounds of gold from one hundred weight of ore.

“The discoverer is a gentleman of resplendent professional eminence, from whose generosity there is every reason to presume that this grand source of opulence will diffuse its salutary influence throughout the community.—What an advantage will not America derive from this unexpected blessing?

“It will prevent war and carnage, and eventually be the means of consolidating the union into one indissoluble mass of empire.

“Our warriors will have no occasion to disturb the tranquility of South America, to sack and storm towns in quest of fame and plunder, when they can acquire both without toil or danger. Those persons, who from sordid motives of interest, oppose the Federal Constitution, will now dwindle into silence.—The mouth of *CENTINEL* shall be *locked* with a *Golden Key*—and the *poor, unfortunate, half-starv'd scribler*, who writes under the signature of *PHILO-CENTINEL*,² shall be *no longer Pennyless*.”

1. Reprints by 5 February 1788 (19): Vt. (1), N.H. (2), Mass. (8), R.I. (1), Conn. (3), N.Y. (3), Md. (1). The *New Haven Gazette*, 10 January reprinted only the first paragraph.

2. No article signed “Philo-Centinel” has been found in the extant issues of Charleston newspapers before 3 December.

New Jersey Journal, 5 December¹

A letter from New-York, of December 3, says, "Politicks run high here—Republicans *versus* Constitutionalists. Which will carry their point is doubtful; hoary headed time must determine.—It is a heavy tax on us to read the many pieces with which our papers abound. There are many spacious² arguments used on both sides. It is a query, from the complexion of things, whether the legislature adopt the resolution of Congress for calling a convention. Anarchy stares us in the face."

1. Reprints by 16 February 1788 (18): N.H. (1), Mass. (5), R.I. (1), Conn. (4), N.J. (1), Pa. (3), Md. (1), S.C. (1), Ga. (1).

2. Fourteen of the reprints changed "spacious" to "specious."

Connecticut Courant, 10 December¹

Extract of a letter from a Gentleman in London to his friend in this City, dated Sept. 25.

"Every thing here has an appearance of an approaching and speedy war; the King of Prussia by rapid movements of his General the Duke of Brunswick, has taken possession of all Holland for the Stadtholder, except Amsterdam, which it is imagined cannot long hold out. Whether France will assist the Hollanders remains to be ascertained; but [the] Administration have promoted 16 Admirals, put 23 ships of the line in commission, and are pressing all the sailors in the river and the out ports, ordered near 20,000 men to be added to the land forces, engaged 10,000 tons of shipping for the transport service; the answer of the Court of France will determine the great question of peace or war—France is so internally distracted that I do not see how she can venture to engage in a war, yet if she deserts the Dutch, she loses her character and consequence with them, and they are riveted in the interest of England.

"I have heard nothing of your doings in America—Will your Convention be able to invigorate your government? or will my predictions be true—alas! I fear so. All Europe have an opinion you are sinking into anarchy and ruin; but when I reflect on the astonishing exertions during the war, to which you were roused by your extreme danger, I have some hopes—Think on Poland."

1. Reprints by 3 January 1788 (7): N.H. (1), Mass. (2), R.I. (2), Conn. (1), Md. (1). The second paragraph only was reprinted in thirteen other newspapers by 10 January: N.H. (1), Mass. (1), N.Y. (3), N.J. (1), Pa. (4), Md. (1), Va. (2).

Philadelphia Independent Gazetteer, 14 December¹

Extract of a letter from a gentleman in South-Carolina, to his friend in this city.

“Do send me every curious print and paper respecting the new government. There exists not a single doubt but that in this state it will be adopted, as well as in those of Georgia and North-Carolina. The conventional system has, in my opinion, but ONE GREAT and ESSENTIAL DEFECT in its frame; and it appears to me, that this very ESSENTIAL DEFECT was overlooked from DESIGN. This defect is, that THE SACRED LIBERTY OF THE PRESS remains without any constitutional *federal* protection;² so that should a citizen write, as he now has a right to do, against any unconstitutional or despotic exertion of the *legislative, executive, or judicial* powers (blended and complicated as they are) of the new Congress, or of their *General President*, the *writer*, as well as the *printer* (should he be base enough to betray the secrets of his business) becomes instantly amenable, not to the *local* laws of his own state, which have no cognizance of *federal* delinquencies, but to those of a *partial* and *interested* FEDERAL COURT, which, in this one point, has no law to restrict the TYRANNY of their sentence.

“Another defect is, that against *supposed* federal imprisonments, the benefit of an *habeas corpus* has not been provided.”

1. Reprinted: *New York Morning Post*, 21 December; *Poughkeepsie Country Journal*, 26 December.

2. The text to this point was reprinted four times: *Massachusetts Centinel*, 29 December; *Boston American Herald*, 31 December; *New Hampshire Spy*, 1 January 1788; *Portland Cumberland Gazette*, 3 January.

APPENDIX II

Americans Abroad Comment on the Constitution

Soon after the Constitutional Convention adjourned on 17 September, copies of the Constitution were forwarded to individuals in Europe. Foreign diplomats stationed in America also sent copies of the Constitution to their respective governments. The Constitution arrived in England by late October and between 30 October and 2 November it was reprinted in at least six London newspapers. By 13 November the Constitution was received in Paris and on 20 November a brief description was published in the Paris *Gazette de France*.

News of events in America took from four to seven weeks to cross the Atlantic. A letter written by an American in Europe, and dated 1 December, would be responding to events that took place in October. For this reason, letters written by Americans abroad have been placed in this appendix rather than in the general chronology of *Commentaries on the Constitution*.

John Brown Cutting to John Rutledge, Jr. London, 1 November (excerpt)¹

. . . Before I seal this scrawl let me not forget to congratulate You upon the noble and just architecture of the new federal constitution of our country: the most stupendous Fabric of republican government that ever was invented to defend, or constructed to adorn or promulgated to perpetuate political freedom, civil happiness and national renown. In my warm admiration of its composition, utility and excellence, I extol every member of that Convention whose name is annexed to the work, and fancy and foresee marble monuments and bronze busto's to his honor, starting into form from the future gratitude of posterity—but in all events, and without either the heat of prophesy or the hallelujahs of enthusiasm, one may venture to predict that the suffrages and approving sanction of nine states must make the architects of such an eminent Edifice at least memorable if not immortal.

1. RC, Southern Historical Collection, John Rutledge Papers, University of North Carolina. Cutting (c. 1755-1831), an apothecary during the Revolution, studied law with John Lowell of Boston in 1783 and was in England to complete his legal studies. In June 1787 he was "a ministerial amanuensis" to John Adams. He visited Paris in September and October and was hired as an attorney by a group with claims against South Carolina. John Rutledge, Jr. (1766-1819) of South Carolina had studied law with his father and was in Paris on a "grand tour" of Europe. He left for London early in November.

John Brown Cutting to William Short
London, 3 November (excerpt)¹

... Permit me to congratulate You upon the doings of the Convention. What cou'd be the motives of Mr Mason and Governor Randolph of Virginia and Mr Gerry of Massachusetts in refusing to set their names to such a Constitution? Several among those whom You and Mr Jefferson esteem residents in Grosvenor Square² have endeavour'd to raise even the ghost of a republican objection to the fœderal fabric; but the effort was fruitless. Will You condescend to make a similar one for me on paper? If you succeed I will more than ever applaud You and distrust myself. Mr Adams is decided for an unqualified absolute negative being vested in the Governor General of the United States for actual use pro re nata in all legislative cases of error or disorder whatsoever. And wou'd likewise prefer having the same sort of negation-authority mingled among the attributes of every chief-magistrate of the republics in our union

If it be no breach of social confidence I beg You to enrich me with Mr Jefferson's opinions as well as your own upon the momentous alterations which are proposed by the new federal constitution of our Country.

The City and liberties of Philadelphia have expressed in a petition to the State Legislature the most earnest desire to fulfil the recommendations of the late Convention without delay.³

By very late letters likewise from Massachusetts it appears that the system proposed by twelve States was not only popular in that Commonwealth, but wondrous to relate, in the Rhode-Island also.

In my own mind I reckon upon the ratification of nine States as a certain measure. Concerning Virginia New York, Connecticut and Rhode-Island I confess I entertain doubts and fears. Col. Forest⁴ thinks Maryland will cheerfully comply.

I am so far enthusiastic in my wishes for a wise and solid confederation of the United States that my belief is I perceive warmed and influenced. Already I have habituated myself to consider the arduous work of *adoption* and *sanctification* by nine of the state Conventions, as completed. And having organized Congress in the mode and manner recommended by the illustrious *thirty nine* I begin to theorize for a patriotic and dignifying President. If General Washington refuses, as it is rumoured he will, to sustain the important duties of the highest station in the civiliz'd world I, mentally, nominate Mr Jefferson to ascend that summit of republican renown.

In the meantime together with yourself he will excuse the freedoms and accept the compliments of My Dear Sir Your Most Obedt Servt:

1. RC, Short Papers, DLC. Short received the letter in Paris on 13 November. It was carried from London by Daniel Parker (d. 1796), a former Massachusetts merchant who had fled to Europe in 1784 to escape his creditors. See Short's response to Cutting on 15 November, below.

2. John Adams and his family were residents of Grosvenor Square in London. See below for the letters of John and Abigail Adams, their daughter, Abigail Adams Smith, and their son-in-law, William Stephens Smith.

3. On "Friday Morning," perhaps the day before Cutting wrote to Short, Cutting sent a transcription of the text of this petition to John Adams. Cutting informed "the patriots and patriotesses at Grosvenor Square" that he could not "wait patiently until the Evening without communicating" this transcription to them. He believed that they "ought ever to have the earliest [of?] occasions to rejoice at the prosperity and amor patriæ of the citizens of the United (or Uniting) States of America" (Thomas Jefferson Papers, Vol. 33, ff. 5663-64, DLC). For this petition, see RCS:Pa., 134.

4. For Forrest, see Forrest to Thomas Jefferson, 11 December, note 1, below.

Abigail Adams to Cotton Tufts London, 6 November (excerpt)¹

. . . I have only room to add that the Form of Government by the late Convention is esteemed here as a Sublime work, they add that it is so good that they are persuaded the Americans will not accept it. it may admitt of Some amendments but it is certainly a great Federal Structure. . . .

1. RC, Adams Family Papers, MHi. The letter has no addressee, but Tufts endorsed the letter as received on 21 February 1788. On 28 February Tufts wrote John Adams that he had received Mrs. Adams's letter of 6 November (*ibid.*). Abigail Adams (1744-1818) was Tufts's niece. Tufts (1732-1815), a Weymouth, Mass., physician, was administrator of John Adams's affairs while Adams served in London. Tufts represented Weymouth in the Massachusetts Convention, where he voted to ratify the Constitution in February 1788. He was also a member of the Massachusetts Senate and a justice of the quorum for Suffolk County.

Thomas Lee Shippen to William Shippen, Jr. London, 6 November (excerpt)¹

. . . I must tell you in three words that I am charmed with the Constitution of Government which the Fœderal Convention has fabricated for us. It appears to me the most stupendous fabric of legislative contrivance that the wit of man has ever devised—Every advantage of this Constitution² seems transplanted into that with increase. The people here extol as the master piece of policy, and the Convention as a Roman Senate—We stand six inches higher at least than we did. In Westmr Hall³ this morning I felt the barristers press my hand harder than usual, and I found it was because my Country had improved so much since I saw them last in ye science of Govt., or rather because she had, from having

as they conceived no government at all adopted the best that human [infirmities?] allow to exist upon Earth. . . . [The letter is mutilated at this point.]

1. RC, Shippen Family Papers, DLC. Thomas Lee Shippen (1765-1798), the son of Dr. William Shippen, Jr., of Philadelphia, was studying law at Inner Temple.

2. The English Constitution.

3. Westminster Hall was the seat of the chief law court of England.

John Adams to Thomas Jefferson London, 10 November (excerpt)¹

. . . I forwarded a few days ago, from Mr Gerry, a Copy as I suppose of the Result of Convention.²-It seems to be admirably calculated to preserve the Union, to increase affection, and to bring us all to the same mode of thinking. They have adopted the Idea of the Congress at Albany in 1754 of a President to nominate officers and a Council to Consent:³ but thank heaven they have adopted a third Branch, which that Congress did not. I think that Senates and assemblies should have nothing to do with executive Power. But still I hope the Constitution will be adopted, and amendments be made at a more convenient opportunity.

What think you of a Declaration of Rights? should not such a Thing have preceeded the Model? . . .⁴

1. RC, Jefferson Papers, DLC. Printed: Boyd, XII, 334-35. Jefferson recorded this letter as received on 26 November in his "Summary Journal of letters" (*ibid.*, 335n).

2. Elbridge Gerry sent Adams a copy of the Constitution on 20 September (CC:82).

3. The Plan of Union of the Albany Congress (1754) states "That all Military Commission Officers Whether for Land or Sea Service, to Act under this General Constitution, shall be Nominated by the President General But the Approbation of the Grand Council, is to be Obtained before they receive their Commissions, And all Civil Officers are to be Nominated, by the Grand Council, and to receive the President General's Approbation, before they Officiate . . ." (Leonard W. Labaree, et al., eds., *The Papers of Benjamin Franklin* [New Haven, 1959-], V, 392).

4. On 12 February 1788 Adams wrote: "a Declaration of Rights I wish to see with all my Heart. . . . The Press, Conscience & Juries I wish better Secured" (to Cotton Tufts, Misc. Mss., John Adams folder, NH).

Thomas Jefferson to John Adams Paris, 13 November (excerpt)¹

. . . How do you like our new constitution? I confess there are things in it which stagger all my dispositions to subscribe to what such an assembly has proposed. the house of federal representatives will not be adequate to the management of affairs either foreign or federal. their

President seems a bad edition of a Polish king. he may be reelected from 4. years to 4. years for life. reason & experience prove to us that a chief magistrate, so continuable, is an officer for life. when one or two generations shall have proved that this is an office for life, it becomes on every succession worthy of intrigue, of bribery, of force, & even of foreign interference. it will be of great consequence to France & England to have America governed by a Galloman or Angloman. once in office, & possessing the military force of the union, without either the aid or check of a council, he would not be easily dethroned; even if the people could be induced to withdraw their votes from him. I wish that at the end of the 4. years they had made him for ever ineligible a second time. indeed I think all the good of this new constitution might have been couched in three or four new articles to be added to the good, old, & venerable fabrick, which should have been preserved even as a religious relique. . . .

1. RC, Adams Family Papers, MHi. Printed: Boyd, XII, 349-51. The letter was carried to Adams by John Rutledge, Jr.

**Thomas Jefferson to William Stephens Smith
Paris, 13 November (excerpt)¹**

. . . I do not know whether it is to yourself or mr Adams I am to give my thanks for the copy of the new constitution.² I beg leave through you to place them where due. it will be yet three weeks before I shall receive them from America. there are very good articles in it: & very bad. I do not know which preponderate. what we have lately read in the history of Holland, in the chapter on the Stadtholder, would have sufficed to set me against a Chief magistrate eligible for a long duration, if I had ever been disposed towards one: & what we have always read of the elections of Polish kings should have forever excluded the idea of one continuable for life. wonderful is the effect of impudent & persevering lying. the British ministry have so long hired their gazetteers to repeat and model into every form lies about our being in anarchy, that the world has at length believed them, the English nation has believed them, the ministers themselves have come to believe them, & what is more wonderful, we have believed them ourselves. yet where does this anarchy exist? where did it ever exist, except in the single instance of Massachusets?³ and can history produce an instance of a rebellion so honourably conducted? I say nothing of it's motives. they were founded in ignorance, not wickedness. god forbid we should ever be 20. years without such a rebellion. the people can not be all, & always, well informed. the part which is wrong will be discontented in proportion to the importance of the facts they misconceive; if they remain quiet under such misconcep-

tions it is a lethargy, the forerunner of death to the public liberty. we have had 13. states independant 11. years. there has been one rebellion. that comes to one rebellion in a century & a half for each state. what country before ever existed a century & half without a rebellion? & what country can preserve it's liberties if their rulers are not warned from time to time that their people preserve the spirit of resistance? let them take arms. the remedy is to set them right as to facts, pardon & pacify them. what signify a few lives lost in a century or two? the tree of liberty must be refreshed from time to time with the blood of patriots & tyrants. it is it's natural manure.⁴ our Convention has been too much impressed by the insurrection of Massachusets: and in the spur of the moment they are setting up a kite to keep the hen yard in order. I hope in god this article will be rectified before the new constitution is accepted. . . .

1. FC, Jefferson Papers, DLC. Printed: Boyd, XII, 355-57. William Stephens Smith of New York (1755-1816) studied law before the Revolution. He attained the rank of lieutenant colonel in the Continental Army and was one of Washington's aides de camp from 1781 to 1783. He was secretary to the U.S. legation in London from 1785 to 1788, and in 1786 he married minister John Adams's daughter, Abigail. He returned to America in May 1788 and settled in Jamaica, N.Y.

2. On 10 November Adams had informed Jefferson that he had sent him a copy of the Constitution "a few days ago" (see above).

3. Shays's Rebellion.

4. For similar comments by Jefferson, see *New Haven Gazette*, 19 April (CC:15 and headnote).

William Short to John Brown Cutting Paris, 15 November¹

Mr. Parker sent me two days ago, my dear sir, your agreeable letter of the 3d. I have had the pleasure of seeing that gentleman two or three times since his arrival here. I find that he merits fully whatever you have said of him, I shall be happy in every instance during his stay here to render him the services which may be within my reach.

You tell me that some of my friends in Grosvenor square "have endeavoured to raise even the ghost of a republican objection to the federal fabric"—& you desire me to do the same.—I profess no skill in raising ghosts; but without skill I think some very serious objections may be raised to the proposed constitution; considered abstractedly from the manner in which it has been formed & proposed.—these objections are such as make an impression on me from which no consideration can exempt me—but in order to present them in a proper light to you sir, & to fortify them with the reasons which operate on me, I should write a treatise rather than a letter & should very certainly have produced no other effect than that of [wearying?] your patience without changing

your opinion.-& I will simply tell you therefore my objections as to two parts of the constitution.-1. it has converted the thirteen republics into one mixed monarchy-for notwithstanding the humble title of President elective from four years to four years, he will have greater powers than several monarchs have & though no harm should result in the first part of this [new?] reign, the President of this eighteenth century will I fear necessarily form a stock on which will be engrafted a King in the nineteenth.-2. nine states being allowed to adopt this constitution against the consent of the other four appears to me an infraction of a confederation solemnly entered into & unchangeable but by the consent of all the parties confederating.-If you say there are certain cases in which it is lawful to do violence to a contract of this sort; I answer that the objective is a dangerous though perhaps a necessary one; that perhaps recourse should be had to it if one or an insignificant part of the contracting subjects should by perverseness or obstinacy [desolving?] the whole into unavoidable ruin-but that a contract can never be sacred when it may be changed against the consent of four out of thirteen of the parties.-besides laying aside this thing sir, what will be the event in practice, if as seems possible, Connecticut Rhode Island New-York Virginia, should be the only refusing States? I dare not look beyond that moment.-So much against the constitution, but certainly it is temerity in any body on this side of the Atlantic to pronounce against it, when it is recollected that that constitution is the result of the deliberations of the wisest & best heads in America collected into one point, & formed from a view of the circumstances on the spot-It is this sir which increases my alarms-I say these men would never have proposed so violent & so desperate a remedy unless the case had appeared to them of the most violent & desperate nature.

On the whole I turn & twist this matter every way & find consolation nowhere- should the constitution not be accepted by nine States the evil remains in its full & increasing force, without the remedy being applied-should it be accepted by all will the cure take place? & if it does is not the remedy as bad, worse than the evil?-if rejected by four what becomes of the Union of the thirteen?-

You desire to know Mr. Jefferson's opinion-as far as I have been able to collect it it is that the Presidents powers are too great-too little defined-& his being capable of being re-elected, of bad consequence.-he thinks I believe also, & it appears very reasonable, that a few slight alterations in the present confederation would have effectually resolved all [Points?]-& would have been more likely to have met the unanimous approbation of the States.-May it never meet all the impending dan-

gers & leave the liberties of America uninjured even by her own citizens!

1. FC, Short Papers, DLC.

John Brown Cutting to Tench Coxe
London, 14 November, 4 December (excerpts)¹

. . . Your *undated* but extremely intelligent short letters sketching the *election*, & the *seceding* business in Philadelphia,² are arrived but neither the mediator nor Capt. Sutton have I yet seen—nor is your larger parcel come to the counting house to which You refer me.

The family of Mr Allen³ is perfectly well. The fœderal constitution deserves that countenance and those exertions which all *cool* and *considerate* men will I hope continue to give it. I wish persons of a different description may not by a red hot zeal quite untemper'd by sound discretion *disserve* a cause which I charitably believe they mean to promote.

Mr Adams after a thorough examination of the plan—altho he wishes some part of it had been built differently—and he thinks needs a little amendment—approves, recommends and hopes the same will be unanimously adopted. Every *learned*, and *good* and great man here who is a well-wisher to our country—applauds the fœderal constitution—and only fears the people will be *mised*, & not adopt it.

London Decr 4. I have broken the seal of this letter, barely to acknowledge the receipt of the papers, You had the goodness to send me. . . .

Transmit me every thing relative to the new government by every opportunity. I shall be here till late in February. . . .

1. RC, Tench Coxe Papers, Series II, Correspondence and General Papers, PHi.

2. For the Pennsylvania Assembly election of 9 October, see RCS:Pa., 173-79, and for the secession of a number of assemblymen on 28-29 September, see CC:125.

3. For Andrew Allen, a Pennsylvania loyalist, see CC:147.

Thomas Lee Shippen to William Shippen, Jr.
London, 20 November¹

You did me the honor in your last letter to ask my cool sentiments upon ye new constitution of government which has been offered to the acceptance of America by the late Convention at Philadelphia and I am so much flattered by the request that I suspend for the present my account of Westminster Hall for the purpose of complying with it immediately. Let me premise that this is a subject on which the sages of this Country are much divided and I am sorry to find that the greater

part of the true whigs the liberty men of England are opposed to the form of government which has been proposed: Among the latter stands conspicuous Sir G. Staunton² an Irish Baronet of whom I have written to you before and who unites more extensive information & more logical powers of reasoning with the most Quixotic enthusiasm than are often found united. The latter has led him to conclude that because the Americans had discovered during the last war firmness and magnanimity in asserting their rights, they could not stand in need of the tricks of government as he expresses himself or, the coercion of power to keep them in order and obedience. He believes that we possess that sola virtus invicta in almost an exclusive degree which supplies the place of all other requisites, and is sufficient to bear us up against the anarchy of the loosest government. I had a very long conversation with him this morning upon the merits of our new constitution, and I mention it as well as the gentleman principally because the recital of my answers to his objections will serve as well as any other mode, to possess you of my opinion upon the subject. His first and great objection is that the permanency of the two branches viz the President & ye Senate will create distinctions amongst us unworthy of a free and enlightened people. He contends that there ought to exist that sort of equality in all Countries which Nature has ordained amongst men, and that no distinctions but those of merit ought ever to be upon any account tolerated. The spirit of liberty says he which had been long extinguished in Europe, received a new birth in America. You were wise enough to nourish and protect it for a season. The most glorious successes in the most just war had given you advantages which no other Country before you ever had, of chusing for yourselves the best and most perfect forms of government. Considering that you adopted yours in times of war and devastation they are better than could have been expected; they were excellent, and the honest part of Europe looked up to them with reverence because they had liberty and equality for their basis. They had perhaps some defects, but they were easy to be remedied. Impatient of temporary inconveniences, you have rashly overthrown the system which was the gift of Heaven and have lost sight of a great object for which you have so nobly fought and bled in a 7 years war. You had erected a fine and stately fabric whereof some key stones were wanting, and which you should with a modest and reverent hand have endeavored to supply, but instead of that, to amend its defects you have demolished & destroyed the whole building, and I think sacrilegiously. Thus Sir George in opening the discussion. In particularizing, he said, that as the due rotation of offices is essential to freedom and independence, so the want of it ensures venality and corruption. He thinks Congress has too much power, and that

from being the best organized body in the world, they are become the most preposterous and the worst: that the President by the power & dignity attached to his office, will be raised too high above his fellow citizens & will in a short time begin to forget that they were ever his equals: Indeed in this he is joined by all the people here, that the President bears much too near a resemblance to a King to exist the head of a Republic and that with all our boasted abhorrence of a kingly government, in the moment when we were free to chuse for ourselves we have made use of the privilege to adopt the form of government we had abjured. The other great objection was that the Senate upon the plan under consideration would be always a dangerous Aristocratic body-In answer to these and other remarks of nearly the same tendency, I took the liberty to observe that as our circumstances in the early period of the contest had given us the opportunity so we had embraced it of framing our constitutions upon the principles of equality independence and virtue; that we had paid every compliment to the character of human nature by giving full play to all its virtues without providing sufficient checks to its bad qualities; and that as long as we were united by a sense of common danger, as long as we had interesting objects so to engage our attention that no room was left for indolence and its attendant ills, we had no cause to complain or to repent our choice: but as soon as the rumors of war had ceased to be heard, and it became the question to discharge the debts which had been contracted in establishing our rights, by our industry and labor, when the overwhelming power of military force had withdrawn its terrors and we were left to the milder sway of equitable laws under constitutions of government illy calculated to *enforce* obedience, we discovered that in America as in older Countries, we had turbulent and unruly spirits to struggle with, and that even there, we had occasion for coercion and force. To effect the acquisition of these points, additional powers were necessary to be lodged somewhere, and it had been thought unwise to place them in any one of those bodies of men which had been organized under an idea that such augmented powers were unnecessary-hence arose the necessity of new modelling our forms of government upon a change of circumstances, that so one part of our system might correspond with the other. In some such way I vindicated our sages from the charge of caprice and fickleness. I next observed that we had still a high opinion of the virtue of our citizens, and believed that as long as we left with them at large the appointment of their rulers there would be nothing to apprehend from a person's too long continuance in office, because the means as well as the habits of corruption being alike unknown to us as soon as a servant of the public forfeited that character which had first recommended him to their favor, his popularity &

employment would cease together: that as to the supposed danger of Aristocratic influence, we should be safe from that while we continued to keep it disarmed of its hereditary sword, and that it could never be deemed either unjust or unwise to give something like a permanency of reward & honors to distinguished merit wisdom & virtue. That tho' the Lords in Europe made slaves of their inferiors, while they were absolute and uncontrolled, there could never happen to our Senators while there was so nearly equal a distribution of property amongst us, and while they owed their distinction not to birth, but to the gratitude of their Country. I foresaw great good in the nature and probable tendency of the representative body of Congress. In the old C. the [state] legislatures were the sole electors—here 2 out of 3 branches are chosen by the people, and if the Senate who are themselves no farther independent of the people than the whole of the former body were, (except that they are chosen for 6 years & the others were only for 3) if they should I said manifest any the smallest inclination to abuse their power, they would find a check in the lower House which they would never be able to overcome: Sir George would not agree that governments ought to be calculated for the people who were to be governed, but insisted that virtuous governments would make virtuous people and here we were interrupted in our argument. Between ourselves, it appears to me from the small acquaintance I have with these subjects, that the new constitution is full of virtues and full of faults, and that it is hard to say which preponderate. I must not be accused of presumption since I do not publish my opinion, but I think the President Vice P. & Senators should be only once eligible, that the President should have a Council, that the consent & concurrence of the 13 States ought to have been made indispensable (because such was the original pact which bound us together, and any breach of it appears to me both against good faith & good policy) that the representatives should have been more numerous and that Fœderal jurisdiction should not have interfered so much with or rather so much have annihilated State legislation. I think a great many other things, that our wise men were foolish in being so rash and impatient, and so determined withal to cram down our throats *fas vel nefas* without giving us cooling time to digest it, this perfection as they supposed it of their handiwork, that they have driven from one extreme into the other, and that there is greater call at this moment for firmness and moderation in the people than there has been at any period of our history—I say with Demosthenes May God grant that what is finally adopted may tend to ye advancement to the glory & to the happiness of my Country. I wish in fine to hear that 13 States have adopted this form

of government nemine contradicente, and for this only reason that [The remainder of the letter is missing.]

1. RC (incomplete), Shippen Family Papers, DLC.

2. Sir George Leonard Staunton (1737-1801), an Irish physician, held several governmental offices in the British West Indies in the 1760s and 1770s. From 1781 to 1784 he was secretary to the English governor of Madras (India). He returned to England in 1784 and was made an Irish baronet the next year. He was elected a fellow of the Royal Society in February 1787.

William Stephens Smith to Thomas Jefferson
London, 3 December (excerpt)¹

I have been honoured by the receipt of your Letter of the 13th. ulto.² and notice the alarm of your patriotic spirit, on the subject of the newly proposed project, of a foederal Constitution, I have read it frequently and with great attention, and tho' I am a great friend to foederal men & foederal measures, & am decidedly of opinion, that some alterations were necessary, still on the plan proposed, I look with an anxious mind, and "trembling can't enjoy." perhaps a three years absence from my Country has disqualified me, from being competent to decide on the question. I have a great Confidence in the members of the Convention both as it relates to their Patriotism & abilities, and am willing to believe, that considering the stage of Society, the General manners of our people, & the deranged state of our foreign & domestic affairs, it was necessary to fix a greater coercive power somewhere, & even to entrust it to the hands of an Individual, giving at the same time deliberative assemblies proper powers to check and even to controul, by the withholding supplies of Cash &c-but tho' I think it essential to the welfare & tranquility of a state, that Government should Correspond with the existing manners of the people, still for myself, I feel a great diffidence in deciding whether in the present case, there may not be an attempt to make too rapid advances on the theatre of Government; for I even hold it a duty due to the Governed, to check as much as possible the advances and pressure, which they are constantly making, and that the address and ingenuity of Government attached to the happiness of the people, should be exercised, to keep them (as long as their manners will in any degree admit of it,) within those pales where *pomp*, *luxury*, and *dissipation* are not countenanced and nourished-these I believe to be generally nourished, where Government is committed to the Hands of a few; the human mind under those Circumstances, is apt to be inflated with pride, disposed to keep up what they call the dignity of their Station & instead of nourishing a superior degree of benevolence & attention to those who placed them there, they feel themselves on the high Horse of power & expect every knee to bend to their station-I should grieve for my Coun-

try, if in any degree, the engines of power should be permitted to move to the injury of the rights and Liberties of the people, properly defined and well founded—I should have been much better pleased if the President was furnished with a Constitutional Council; as he is not, I am rather apprehensive he will seldom return bills to the two Legislative branches with his objections & reasons, and I agree with you, that in time our Country may experience inconvenience, from too successful a Court being paid by a foreign power to that Individual and a Stadtholderian Scene be exhibited in America—but with respect to our experiencing inconvenience in his election, similar to those of Poland with submission, I would observe, the meeting will not be general, nor on the plains of Monmouth,³ but in 13 different places on the same day & these by ballot & not “viva voce,” so that, it may be perfectly a silent transaction as it relates to the respective states—but when those votes are transmitted to the senate & house of Representatives, if there should not be a decided majority in favr. of some one disagreement and inconvenience may arise, & they may quarrel & fight for the fœdral Chair—but the point which to my mind is charged with the most hazard and inconvenience for the present day, is the 8th. section of the first article particularizing the powers of Congress—God knows where it will end—If it was not for the fifth article I should dread it’s establishment—and considering the situation of our Country & Government I shudder at its rejection, for if a great deal of pains is not taken to preserve the temper of the people, in case of giving existance to public objections, tumult & Confusion will ensue—I hope the subject will have a fair & candid investigation, and that the men of sense and Influence in our Country will take pains to instruct the public mind, & lead them to give their voices for those establishments, which are necessary for the dignity of their Governments, but not inconsistent with their own dignity as a free and enlightened people—It is to this reserve in our leading men, that I lay a very large proportion of the real & imaginary inconveniences we have hitherto experienced. I believe that the people at large only wish to be informed & taught what is right and most likely to promote their happiness & they will pursue it—but when the best informed men in a Country will be totally silent & give the people up to the guidance of their passions, headed by disorderly & vicious characters, & not even attempt to inform them of their errors, what in the name of Heaven can be expected—nothing Short of Shouting justice out of Countenance, giving a currency to injury and oppression, & treating with derision the most solemn national Compacts—these horrid scenes have been acted since the war in several parts of our Country. I speak decidedly, relative to my native State, and entirely owing to that shameful, nay criminal silence

in those men who ought to put themselves forward, to instruct some & awe others by the wisdom of their observations and the weight & integrity of their Conduct—but they did not chuse to risk their popularity, or wished the people to force them into such establishments as would make the distance greater between them—but I will not dispond I will hope for the best & if necessary dare fight against the establishment of the worst. . . .

1. RC, Jefferson Papers, DLC. Printed: Boyd, XII, 390-92. This letter was supposed to be delivered to Jefferson by Lewis Littlepage, but Littlepage failed to do so. When Smith discovered that the letter had not been received, he sent Jefferson a press copy as an enclosure in another letter dated 16 January 1788. When informed of his oversight, Littlepage delivered the 3 December letter to Jefferson (Boyd, XII, 392n, 484, 517, 518n, 558). For Littlepage, see Adams to Jefferson, 6 December, note 5, below.

2. See above.

3. At the bottom of the page, below "Monmouth," Smith wrote "Warsaw."

John Adams to Thomas Jefferson London, 6 December¹

The Project of a new Constitution, has Objections against it, to which I find it difficult to reconcile myself, but I am so unfortunate as to differ somewhat from you in the Articles, according to your last kind Letter.²

You are afraid of the one—I, of the few. We agree perfectly that the many should have a full fair and perfect Representation.—You are Apprehensive of Monarchy; I, of Aristocracy.—I would therefore have given more Power to the President and less to the Senate. The Nomination and Appointment to all offices I would have given to the President, assisted only by a Privy Council of his own Appointment Creation, but not a Vote or Voice would I have given to the Senate or any Senator, unless he were of the Privy Council. Faction and Distraction are the sure and certain Consequence of giving to a Senate a Vote in the distribution of offices.

You are apprehensive the President when once chosen, will be chosen again and again as long as he lives. So much the better as it appears to me.³—You are apprehensive of foreign Interference Intrigue, Influence.—So am I.—But, as often as Elections happen, the danger of foreign Influence recurs. the less frequently they happen the less danger.—and if the same Man may be chosen again, it is probable⁴ he will be, and the danger of foreign Influence will be less. Foreigners, seeing little Prospect will have less Courage for Enterprize.

Elections, my dear Sir, Elections to Offices which are great objects of Ambition, I look at with terror.—Experiments of this kind have been so often tryed, and so universally found productive of Horrors, that there is great Reason to dread them.

Mr Littlepage⁵ who will have the Honour to deliver this will tell you all the News.

1. RC, Jefferson Papers, DLC. Jefferson recorded this letter as received on 13 December in his "Summary Journal of letters" (Boyd, XII, 397n).

2. See Jefferson to Adams, 13 November, above.

3. Abigail Adams wrote that "Some of his [John Adams's] Sentiments I presume will be very unpopular in our Country, but time and experience will bring them into fashion, every day must convince our Countrymen more & more, of the necessity of a well balanced government and that a Head to it, is quite as necessary as a body & Limbs the Name by which that Head is called is of very little consequence but they will find many Heads a Monster" (to Cotton Tufts, 20 February 1788, Adams Family Papers, MHi).

4. Adams's letterbook copy reads "possible" (Adams Family Papers, MHi).

5. In 1786 Lewis Littlepage (1762-1802) of Virginia had been appointed chamberlain to the King of Poland. He was in Paris on "a secret commission" from the King. Littlepage left for London around 12 November and returned to Paris by 31 December.

Uriah Forrest to Thomas Jefferson

London, 11 December (excerpt)¹

. . . I am afraid the proposed constitution will serve to increase the disorders that it's framers wished to extinguish. It contains many good articles, but I am free to own there appears to me some so very bad, as to throw the weight in that scale. I cannot reconcile myself to the Idea of a chief magistrate being eligible a second time, much less continuable for Life. Were not the members too strongly impressed with the late commotion in Massachusetts?² We surely have suffer'd the people of this Country and those who are disaffected in our own, to influence our opinion respecting the true state & situation of our people & Government—the most trifling events have been magnified into monstrous outrages.—Will the next generation credit us that, in the first twelve Years of the Independence of thirteen free powerful & seperate States, only one Rebellion happen'd, and that that one terminated so speedily and honourably towards Govt.? The peoples judgments were no sooner inform'd than they return'd to allegiance, and were convinced that their grievances were immaginary, and that they were not oppressed in the manner a few desperate Characters had attempted to teach them.—

I am obliged to own myself one of those, who do not wish to see the people more obedient to their rulers in the next twelve, or any other twelve years, than they have been in the last.—a proper spirit of resistance is the best security for their liberties, and they shou'd now & then warn their rulers of it. As I am in the legislature and shall be in the convention for the consideration of this proposed Constitution,³ and it is surely a question of the utmost consequence, I wish to acquire every possible information—. If your Excellency will indulge me with such observations on it as hath occur'd to you, it will indeed oblige me—rest

assured that no other use shall be made of them, than the correcting of my judgment and opinion on the subject.⁴

1. RC, Jefferson Papers, DLC. Printed: Boyd, XII, 416-17. Jefferson recorded this letter as received on 17 December in his "Summary Journal of letters" (*ibid.*, 417n). Compare Forrest's letter with Jefferson's letter of 13 November to William Stephens Smith (above). Forrest (1756-1805), a merchant, served in Congress earlier in the year and represented St. Mary's County in the Maryland House of Delegates. He was in England, probably on business, and planned to return to America in January 1788. Forrest was defeated for election to the U.S. Senate in December 1788.

2. Shays's Rebellion.

3. Forrest was not a member of the state Convention.

4. Jefferson replied to Forrest on 31 December and sent him a lengthy extract of a letter that he had written to James Madison on 20 December (see below). Because Jefferson made significant changes in the extract, it has been printed below with his 31 December letter.

John Brown Cutting to William Short London, 13 December¹

Mr Parker has favour'd me with your interesting letter of Novr 16.

Waving for the present all effort suitably to thank You for your obliging attentions to him—I mean only to make acknowledgments for myself. for myself then I thank You heartily for stating your objections to the new plan of Government as proposed by the late Convention.

In them methinks I perceive that hisitation & diffidence in conferring power on any man or body of men, and that salutary jealousy against innovation and incroachment upon establishd forms—in fine that zeal for the purest political freedom, which I am better pleased to discern existing in too high a degree in an american citizen, than not glowing with sufficient warmth. The highest toned passion for civil liberty may be, and often is ameliorated and moulded by experience in government to the most admirable purposes—whereas coldness and indifference and too much confidence in *men*, are dangerous to freedom. But yet it must also be confess'd that those who are chiefly guided by the impulse or govern'd by the enthusiasm even of the best sort of passions too seldom attain the *end* at which such patriots unquestionably aim—namely the greatest happiness of the greatest number of their fellow citizens. And for this plain reason, among others that the very ardour of their desire warps the rational rectitude of their mind, & frequently precipitates them *beside* or hurries them *beyond* their object. I hope you will not be offended if I presume to conjecture that such remarks are not inapplicable to your apparent political temper and feelings. I hope you will pardon me if I say of myself also that I apprehend they are not unrelative to my own. We both I believe swam into manhood during the highest turbulence and agitation of the late conflict with great Britain. In such

a crisis every passion of the soul that cou'd be brought into exertion and fortified by the widest extension of every principle of free government, was exalted to its highest pitch and warmed to its inmost fibre. Political opinions were then diffused and political creeds disseminated, imbibed and sanctified utterly subversive not merely of the british—but in fact of all government. They produced much temporary advantage to us in forwarding the revolution—but when this great work was accomplish'd—many opinions and prejudices which contributed to fulfil it—gave birth or nourishment to political errors and political systems which have wrested the first fruits of fame and civil happiness from our Country. I avoid entering into a detail of all these erroneous political opinions. But there is *one* which I have felt so long and so strongly—and which I have seen so many much more enlighten'd and experienced americans than myself, feel still more strongly—that I cannot forbear mentioning it. It is plainly this that a *democracy* and a *free republic* are convertible terms. Or in other words that those forms of government are the freest and best in which the supreme power is not only possessed by the people but also exercised only by numerous delegations to one simple Assembly annually chosen to legislate—in all cases whatsoever. Your first objection to the new foederal plan—namely “that it has converted the thirteen republics into one mixed monarchy”—has occasion'd me again to recollect my self and feel the pulse of an opinion that has so often perplexed me. What is a Republic? was the first question that I desir'd myself to solve. Rome and Sparta were republics—says the voice of political history. But in reply say I, Rome had Consuls that were in fact kings—and a Senate that were in fact noblemen. And in Sparta the descendents of Hercules were created or rather continued Kings by the very constitution of the Republic—as were the Senate hereditary peers. And what does my friend mean by that “mixed monarchy” of which he seems so very fearful, that he trembles for posterity even in the nineteenth century, lest on the stock of our foederal President they shou'd then engraft a king. Let us suppose this dreaded evil shou'd take place even earlier—if we at the same time suppose that the people of America preserve only their proposed share in the powers and construction of the foederal government—namely the free election of representatives once in every *two* years having a negative upon all laws, and the absolute power of the public purse—; I say even supposing a King shou'd arise in the United States—but with powers in quantum pro tempore, limited and checked as are those of the President, I ask You sir as a politician, under what section of the *three* different forms of Government, you wou'd class this or any such foederal one. If You say “mixed monarchy” I say “free republic”; perhaps I might safely go the length of saying, “democratic republic”.

Since if the *name* is to derive from the *predominating* principle—the powers of a senate and house of representatives as marked out by the american constitution—would more than counter-balance those even of an hereditary President—whose prerogatives and authorities were *definite, supported & circumscrib'd* by law—altho You even admit them to be much more enormous & influential than those confided to his possession by virtue of the new plan. Upon the whole therefore I might venture to assert that even an hereditary President of the United States superadded to the new system would not convert our republics into a “mixed monarchy”. No not even if he were invested with all the authorities of a british monarch—save only that of creating a *nobility*. I repeat this proposition, and place it in so strong a light because the reason you assign for the contrary opinion is “that our President will have greater powers than several monarchs have”. As if the *largest* delegation of *temporary, and limited and ballanced power* necessarily changed the essence or prevailing spirit of any government. But even allowing your principle in its fullest extent, namely that if the first magistrate of our republics has more legal power than some kings have that therefore our commonwealths are transmuted into a mixt monarchy—I am inclined to believe the position unfounded. Suppose for instance by way of illustration we select the king of this *monarchic republic* Britain—and compare his powers and prerogatives with those of our President. I will omit his advantage of *hereditary* succession to the crown. 1. The Monarch of this country is supreme head of an establishd church endowd with an immense patronage which is annexed to an hierarchy—highly influential and weighty in all things spiritual and temporal—a patronage that extends to and embraces schools, seminaries and universities—where the fœtus of the national mind is nurturd into its first form. Not one iota of a power so prevalent and paramount to all other powers in Society has our poor President. He cannot make a Bench of Bishops for life—who are part of the supreme judicial in the last resort—and who after they become noblemen and judges can hold superadditionall livings, and receive promotions to richer fees—and incomes—and which, by the bye generally make them such sure and heavy votes on the part of majesty. *These* are peers for life only, but the king can create their *temporal coadjutors*, the lay lords, with still greater privileges and authorities to be holden by them and their *heirs* forever! And this too *illimitably*—so as even to *manage*—nay with certainty *monopolize*—an absolute *two thirds* of the whole legislative *power*. In his own right he perpetually holds *one third*. But this is not all. He has the absolute appointment of that host of household troops the revenue officers—all of whom he may remove *at pleasure* without *any reason assign'd*. The last *branch* of this enormous power, which embraces

the most active and influential individuals in every corner of the kingdom, is as far greater than the first as *hope* is a less energetic passion than *fear*. He disposes of a million per annum by the civil list—has an unlimited finger in the *privy* purse—and finally the custody of that Exchequer—through which the sum total of the national income perennially flows. I pass over the absolute prerogatives of making *peace war-treaties*—prorogations dissolutions and sudden conventions of a Septennial House of Commons, chosen or rather *fixed* by a few powerful aristocrats—who menace the monarch and oppress the people—unless they are themselves bought by the Prince—. I omit also the regal power to appoint ambassadors and all other officers *civil* and *military*—as also the omnipotent immunities—of being inferior to no man, *dependant* on no man *accountable* to no man—of which dazzling authorities and distinctions—as well as of those other attributes of *ubiquity*, *dignity* and *perfection*—much might be said in point to the present question. But here let me pause and seriously ask you sir to compare this tremendous catalogue of powers, privileges and prerogatives, with those of our foederal President—elective for four years—by *two* modifications of ballot—on one day—in thirteen different & distant *places*—without the custody of the public purse—without the actual aid of compeers in Congress—checked on the one side by a firm Senate—on the other by most popular representatives—and reminded of his duty by an independant *vice President*—chosen likewise by that very body which creates himself, and who together with himself—will be watch'd and guarded—by thirteen different legislatures—who must and will be felt by every part of the foederal government—and who will never be backward in retaining the residue of their local sovereignty—or in promoting impeachments against foederal officers whenever there shall be ground for sustaining any high accusation of their inroachments, crimes or misdemeanours. Of a foederal President so chosen—guided by law—fetter'd by system—I had almost said, manacled both by men and measures, I confess I have many hopes and few fears—nay I can not dread his power altho' he shou'd be re-elected at the expiration of every four years during his whole life. My principal apprehension for the confoederacy with regard to the President is not so much on account of his reiterated eligibility to office—as because of the undue influence upon his public conduct and free agency which from the mingled legislative and executive powers of the senate my timid, jealous democratic spirit inclines me to suppose they do *hold* and may *exert*—especially in appointments to office. Not that I object to an abridgment of the President's eligibility to office a second time. Altho if that amendment shou'd ever be adopted I hope he will be elected for a longer space of time than four years. Yet methinks an admixture of the legislative and executive

authorities in the senate is a much more serious fault in the construction of a pure government, than that of permitting an elective chief magistrate, with authority limited-duty defined-and influence restricted-to aspire a second time to the same pre-eminent station. I consider only the *people* who are to be *governed*, not *those* who may probably govern; or who wish or expect to govern. And thus I reason. If the President first chosen-shall prove a most intrepid and upright magistrate-unawed by representatives-unbiass'd by senators-uncorrupted by power-his excellent habits at the end of four years-will be preferable for public utility to *equally* excellent talents and temper in another candidate even allowing *these* to this next successor. (& putting the chances of a worse man and more unfit officer's being elected quite out of the question.) On the other hand if a President is manifestly weak or wicked or even *not good*-the envy and *jealousy* and *ambition* of all our great characters who will aspire at the first office in the country-united with the murmurs of the moderate and middling classes of citizens and the clamours of the million, must certainly hinder his re-election. However I am not unwilling to concede this abscission of presidential eligibility, if You on the other hand will permit my four years President to nominate a four years executive privy council, consisting of three members from the eastern three from the southern and three from the middle states, for consultation and advice only; at the same time subtracting from the Senate every particle of the executive authority, and investing the whole of it in the President.

Ere this period of my epistle you must perceive that altho our republican ideas in general and objections to the new plan of government in particular are dissimilar-yet that I also can and do raise difficulties and cherish doubts concerning the absolute perfection of the conventional system. But my greatest objection lies against the first article of the fourth section, which reads thus "the times, places and manner of holding elections for Senators and Representatives shall be prescribed in each state by the Legislature thereof; *but the Congress may at any time by law make or alter such regulations, except as to the places of chusing senators.*"² This clause puts the election of Representatives *wholly* and of senators *almost wholly*, in the power of Congress. Congress ought not to possess any authority to interfere in the choice of their own body. Upon a cursory perusal of the new constitution this clause escaped me-but I hope it may be rejected by the state conventions-now sitting, or about to sit-, or else be expunged hereafter in the mode recommended by the foederal convention who framed the system. The powers it confers are *unnecessary* and I think *dangerous*. But let me here make the trite observation that perfection is not the lot of humanity. And since as Mr. Wil-

son judiciously suggests “the seeds of reformation are sown in the institution itself”,³ wou’d it not be absurd in me to oppose the adoption of the Constitution because *I* think some part of it defective or exceptionable. Let every american be permitted to expunge what *he* judges exceptionable, and not a sentence of the system will survive the scrutiny.

I wish your patience may survive the perusal of so tedious a letter thus far. If I cou’d rationally suppose it I wou’d menace You with a long postscript a few days hence—principally level’d against your *second* objection to the new foederal system. At present both *time* and *confidence* are wanting on my part to intrude on your avocations any farther than just to beg You will present me respectfully to Mr Jefferson, and believe me to be with truth and much regard Your affectionate associate And fellow citizen

1. RC, Short Papers, DLC. Short received the letter in Paris on 18 December. It was carried from London to Paris by John Trumbull. Cutting replies to Short’s letter of 15 November, not 16 November, as he indicates in the first paragraph. For the remainder of Cutting’s reply to Short, see his undated letter written around 9 January 1788, below.

2. The italics are Cutting’s.

3. See James Wilson’s speech of 6 October, CC:134.

Thomas Jefferson to William Carmichael Paris, 15 December (excerpt)¹

. . . Our new constitution is powerfully attacked in the American newspapers. the objections are that it’s effect would be to form the 13. states into one: that proposing to melt all down into one general government they have fenced the people by no declaration of rights, they have not renounced the power of keeping a standing army, they have not secured the liberty of the press, they have reserved a power of abolishing trials by jury in civil cases, they have proposed that the laws of the federal legislature shall be paramount [to] the laws & constitutions of the states, they have abandoned rotation in office: & particularly their president may be re-elected from 4. years to 4 years for life, so as to render him a king for life, like a king of Poland, & have not given him either the check or aid of a council. to these they add calculations of expence &c. &c. to frighten the people. you will perceive that these objections are serious, and some of them not without foundation. the constitution however has been received with a very general enthusiasm, and as far as can be judged from external demonstrations the bulk of the people are eager to adopt it. in the Eastern states the printers will print nothing against it unless the writer subscribes his name.² Massachusetts & Connecticut have called conventions in January to consider of it. in New

York there is a division. the Governor (Clinton) is known to be hostile to it. Jersey it is thought will certainly accept it. Pennsylvania is divided, & all the bitterness of her factions has been kindled anew on it. but the party in favor of it is strongest both in & out of the legislature. this is the party antiently of Morris, Wilson &c. Delaware will do what Pennsylvania shall do. Maryland is thought favourable to it: yet it is supposed Chase & Paca will oppose it. as to Virginia two of her delegates in the first place refused to sign it. these were Randolph the governor, & George Mason. besides these Henry, Harrison, Nelson, & the Lees are against it. Genl. Washington will be for it, but it is not in his character to exert himself much in the case. Madison will be it's main pillar: but tho an immensely powerful one, it is questionable whether he can bear the weight of such a host. so that the presumption is that Virginia will reject it. we know nothing of the disposition of the states South of this. should it fall thro', as is possible notwithstanding the enthusiasm with which it was received in the first moment, it is probable that Congress will propose that the objections which the people shall make to it being once known, another Convention shall be assembled to adopt the improvements generally acceptable, & omit those found disagreeable. in this way union may be produced under a happy constitution, and one which shall not be too energetic, as are the constitutions of Europe. I give you these details, because possibly you may not have received them all. . . .

1. FC, Jefferson Papers, DLC. Printed: Boyd, XII, 423-27.

2. See *The Press and the Constitution*, 4 October-15 November, CC:131.

John Adams to John Jay
London, 16 December (excerpts)¹

. . . The Public Mind cannot be occupied about a nobler Object than the proposed Plan of Government. it appears to be admirably calculated to cement all America in affection and Interest as one great Nation. A Result of accommodation and Compromise, cannot be supposed, perfectly to coincide with any ones Ideas of Perfection. But as all the great Principles necessary to order, Liberty and Safety are respected in it, and Provision is made for Corrections and Amendments as they may be found necessary, I confess I hope to hear of its adoption by all the States. . . .

most perfectly do I agree with you that America has nothing to fear, but a Want of Union and a Want of Government. The United States now stand in an elevated Situation, and they must and will be respected and courted, not only by France and England, but by all other Powers of Europe, while they keep themselves neutral. . . .

1. RC, PCC, Item 84, Letters from John Adams, 1777-88, VI, 59f-94, DNA. Printed: *The Diplomatic Correspondence of the United States of America* . . . (7 vols., Washington, D.C., 1833-34), V, 355-57. The first paragraph of this item was published in the New York *Independent Journal* on 12 April 1788, and by 7 May it was reprinted in twenty-three newspapers: N.H. (2), Mass. (7), R.I. (2), Conn. (1), N.Y. (4), N.J. (2), Pa. (3), Md. (2). Adams is responding to Jay's letter of 16 October (CC:164).

Thomas Jefferson to James Madison
Paris, 20 December (excerpts)¹

My last to you was of Oct. 8. by the Count de Moustier. Yours of July 18. Sep. 6. & Oct. 24. have been successively received, yesterday, the day before & three or four days before that.² I have only had time to read the letters, the printed papers communicated with them, however interesting, being obliged to lie over till I finish my dispatches for the packet, which dispatches must go from hence the day after tomorrow. . . .

The season admitting only of operations in the Cabinet, and these being in a great measure secret, I have little to fill a letter. I will therefore make up the deficiency by adding a few words on the Constitution proposed by our Convention. I like much the general idea of framing a government which should go on of itself peaceably, without needing continual recurrence to the state legislatures. I like the organization of the government into Legislative, Judiciary & Executive. I like the power given the Legislature to levy taxes, and for that reason solely approve of the greater house being chosen by the people directly. for tho' I think a house chosen by them will be very illy qualified to legislate for the Union, for foreign nations &c. yet this evil does not weigh against the good of preserving inviolate the fundamental principle that the people are not to be taxed but by representatives chosen immediately by themselves. I am captivated by the compromise of the opposite claims of the great & little states, of the latter to equal, and the former to proportional influence. I am much pleased too with the substitution of the method of voting by persons, instead of that of voting by states: and I like the negative given to the Executive with a third of either house, though I should have liked it better had the Judiciary been associated for that purpose, or invested with a similar and separate power. there are other good things of less moment. I will now add what I do not like. first the omission of a bill of rights providing clearly & without the aid of sophisms for freedom of religion, freedom of the press, protection against standing armies, restriction against monopolies, the eternal & unremitting force of the habeas corpus laws, and trials by jury in all matters of fact triable by the laws of the land & not by the law of Nations. to say, as mr Wilson does that a bill of rights was not necessary

because all is reserved in the case of the general government which is not given, while in the particular ones all is given which is not reserved, might do for the Audience to whom it was addressed,³ but is surely a gratis dictum, opposed by strong inferences from the body of the instrument, as well as from the omission of the clause of our present confederation which had declared that in express terms.⁴ it was a hard conclusion to say because there has been no uniformity among the states as to the cases triable by jury, because some have been so incautious as to abandon this mode of trial, therefore the more prudent states shall be reduced to the same level of calamity. it would have been much more just & wise to have concluded the other way that as most of the states had judiciously preserved this palladium, those who had wandered should be brought back to it, and to have established general right instead of general wrong. let me add that a bill of rights is what the people are entitled to against every government on earth, general or particular, & what no just government should refuse, or rest on inference. the second feature I dislike, and greatly dislike, is the abandonment in every instance of the necessity of rotation in office, and most particularly in the case of the President. experience concurs with reason in concluding that the first magistrate will always be re-elected if the constitution permits it. he is then an officer for life. this once observed it becomes of so much consequence to certain nations to have a friend or a foe at the head of our affairs that they will interfere with money & with arms. a Galloman or an Angloman will be supported by the nation he befriends. if once elected, and at a second or third election outvoted by one or two votes, he will pretend false votes, foul play, hold possession of the reins of government, be supported by the states voting for him, especially if they are the central ones lying in a compact body themselves & separating their opponents: and they will be aided by one nation of Europe, while the majority are aided by another. the election of a President of America some years hence will be much more interesting to certain nations of Europe than ever the election of a king of Poland was. reflect on all the instances in history antient & modern, of elective monarchies, and say if they do not give foundation for my fears. the Roman emperors, the popes, while they were of any importance, the German emperors till they became hereditary in practice, the kings of Poland, the Deys of the Ottoman dependancies. it may be said that if elections are to be attended with these disorders, the seldomer they are renewed the better. but experience shews that the only way to prevent disorder is to render them uninteresting by frequent changes. an incapacity to be elected a second time would have been the only effectual preventative. the power of removing him every fourth year by the vote

of the people is a power which will not be exercised. the king of Poland is removeable every day by the Diet, yet he is never removed.—smaller objections are the Appeal in fact as well as law, and the binding all persons Legislative Executive & Judiciary by oath to maintain that constitution. I do not pretend to decide what would be the best method of procuring the establishment of the manifold good things in this constitution, and of getting rid of the bad. whether by adopting it in hopes of future amendment, or, after it has been duly weighed & canvassed by the people, after seeing the parts they generally dislike, & those they generally approve, to say to them “We see now what you wish. send together your deputies again, let them frame a constitution for you omitting what you have condemned, & establishing the powers you approve. even these will be a great addition to the energy of your government.”—at all events I hope you will not be discouraged from other trials, if the present one should fail of it’s full effect.—I have thus told you freely what I like & dislike: merely as a matter of curiosity for I know your own judgment has been formed on all these points after having heard every thing which could be urged on them. I own I am not a friend to a very energetic government. it is always oppressive. the late rebellion in Massachusets⁵ has given more alarm than I think it should have done. calculate that one rebellion in 13 states in the course of 11 years, is but one for each state in a century & a half. no country should be so long without one. nor will any degree of power in the hands of government prevent insurrections. France, with all it’s despotism, and two or three hundred thousand men always in arms has had three insurrections in the three years I have been here in every one of which greater numbers were engaged than in Massachusets & a great deal more blood was spilt. in Turkey, which Montesquieu supposes more despotic, insurrections are the events of every day. in England, where the hand of power is lighter than here, but heavier than with us they happen every half dozen years. compare again the ferocious depredations of their insurgents with the order, the moderation & the almost self extinguishment of ours.—after all, it is my principle that the will of the Majority should always prevail. if they approve the proposed Convention [Constitution] in all it’s parts, I shall concur in it cheerfully, in hopes that they will amend it whenever they shall find it work wrong. I think our governments will remain virtuous for many centuries; as long as they are chiefly agricultural; and this will be as long as there shall be vacant lands in any part of America. when they get piled upon one another in large cities, as in Europe, they will become corrupt as in Europe. above all things I hope the education of the common people will be attended to; convinced that on their good sense we may rely with the most secu-

riety for the preservation of a due degree of liberty. I have tired you by this time with my disquisitions & will therefore only add assurances of the sincerity of those sentiments of esteem & attachment with which I am Dear Sir your affectionate friend & servant

P.S. the instability of our laws is really an immense evil. I think it would be well to provide in our constitutions that there shall always be a twelvemonth between the ingrossing a bill & passing it: that it should then be offered to it's passage without changing a word: and that if circumstances should be thought to require a speedier passage, it should take two thirds of both houses instead of a bare majority.

1. RC, Madison Papers, DLC. Printed: Boyd, XII, 438-43. For a long extract from this letter, with significant alterations, see Jefferson to Uriah Forrest, 31 December, below.

2. For Madison's letter of 24 October, see CC:187.

3. See James Wilson's speech at a Philadelphia public meeting on 6 October, CC:134.

4. Article II of the Articles of Confederation provided that "Each state retains its sovereignty, freedom and independence, and every Power, Jurisdiction and right, which is not by this confederation expressly delegated to the United States, in Congress assembled" (CDR, 86).

5. Shays's Rebellion.

William Short to James Madison Paris, 21 December (excerpt)¹

I am at present to acknowledge the receipt of your favor dated Oct. 24.² If you consider yourself obliged to thank me for having procured you the acquaintance of M. de Crevecoeur; his friends here, of which he has a great number, are equally thankful to me on the occasion. they consider, & with great reason, that it would have been impossible to render him a more agreeable service.—Allow me at the same time Sir to express to you my gratitude for the real information contained in your letter. It made us more master of the subjects, to which the convention has given rise, than any thing we had seen or heard till then. since that, your letter to Mr Jefferson by Commodore Jones has arrived.³—On the statement which you gave me Sir, of the advocates & opponents to the new Constitution in Virginia, it seems impossible that it should pass in that State. Should it have the same fate in Rhode-Island, N. York & Maryland, we shall see the ill consequences of a clause which alarmed me from the beginning: I mean the adoption of the new constitution by nine States.—the dissenting States being thus dispersed seem to have the quality only of separating the assenting States without the power of uniting themselves. I think the adoption by nine & the refusal by four of the States is the worst possible situation to which the new plan can give birth; & it seems probable that that will be the situation.—Would it

not have been better to have fixed on the number eleven or twelve instead of nine? in that case the plan would have been either refused altogether or adopted by such a commanding majority as would almost necessarily have brought in the others in the end.—There is one thing however which may be opposed to all the arguments that may be adduced in opposition to the new plan; & that is that the members who composed the convention must have had a fuller & better view of the ground & must have considered it more attentively than those who object to it. they must have seen certainly a variety of difficulties which their debates must have presented in full view & which are hidden perhaps from the most penetrating observation under other circumstances.—Particularly to us at this distance, I am sure it is impossible to form a proper opinion on the subject.—there is only one reflexion wch. occurs to me in which I have any confidence of being right! & that is that the Members of the convention would not have not proposed so desperate a remedy if the evil had not appeared to them equally desperate.—I am afraid the case will not be mended by the Patient's refusing to take the violent dose prescribed.

You form a very proper idea of the little weight which the opinions of the learned in Europe on the result of the convention, deserve. I have only seen as yet such of that character as are in Paris, where they are so much occupied with their own affairs, as scarcely to have had time to have read the new plan, much less to have considered it attentively. In Europe however they are almost uniformly for strengthening the hands of Congress or the federal head.—In this they are probably right; but they are right on wrong ground—there are many who have no idea of their being a governmental force existing any where but in Congress: you cannot put into their heads their being actually an efficient government in each of the States.—they know only Congress as the Governors & the rest of the United States as the governed.—When therefore they have read the act which forms the Congress, they determine that there is not power enough delegated by the governed & determine that the quantum ought to be increased—they leave out of the account altogether the governing force existing elsewhere—still however their conclusion is right though the terms by which they get to it, are wrong.—the fact is Sir that they are inconcievably ignorant of whatever relates to the practice of free government, although they have many of them made valuable researches in the theory of it.—Such of the English politicians as are here exult much at seeing that the American governments begin to consider themselves under the necessity of approximating toward the *British constitution*. . . .

1. RC, Madison Papers, DLC. Printed: Rutland, *Madison*, X, 342-44. This letter was addressed to Madison in New York "Via Paquebot du Havre à New-York."

2. See CC:188.

3. See Madison to Jefferson, 24 October, 1 November, CC:187.

Marquis de Lafayette to Thomas Jefferson Nemours, c. 25 December (excerpt)¹

Inclosed, My dear friend, I Send You the Proposed Constitution which I have Received on My Way.² What do You think of the Powers of the President? I am affraid that our friends are gone a little too far on the other Side--But Suppose it is the Case, and General Washington is the President, I know him too well not to think He will find the danger, and lessen the authority Before He goes over. Adieu, my dear Sir--pray write me Your opinion on this Constitution; I Confess those Presidential Powers Seem to me too Great. . . .

1. RC, Jefferson Papers, Vol. 51, f. 8685, DLC. This letter has neither the name of the addressee, the signature of the writer, nor the date of writing. It is dated: "Nemours tuesday" and is endorsed by Jefferson: "Fayette. M. de." For the dating of the letter, see Boyd, XII, 460n-61n. The Marquis de Lafayette (1757-1834) wrote this letter after attending the provincial assembly at Auvergne--an assembly which recommended certain economic and social reforms. He was one of France's leading reformers. Lafayette was a major general of the Continental Army from 1777 to 1781, and after the Revolution he worked for improved commercial relations between the United States and France.

2. George Washington had sent copies of the Constitution to Lafayette and Jefferson on 18 September (Fitzpatrick, XXIX, 276, 276-77). Jefferson received his copy on 19 December (Boyd, XII, 149n-50n).

Thomas Paine to George Clymer Paris, 29 December (excerpt)¹

I received your favor of -- when at London, from which place I returned about a fortnight since. I am obliged to you for the account you gave me of the Steam Boat, the Bridge, and the plan of the newly proposed Constitution. There are many excellent things in the new System. I perceive the difficulties you must have found in debating on certain points, such as the trial by Juries, because in some cases, such for instance as that of the United States against any particular State, for if the trial is to be held in the delinquent State, a Jury composed from that State, would be a part of the delinquent, and consequently Judges in their own case. It seems to be a rule with all the Americans on this side of the water except Mr. John Adams, that the President General had not been perpetually eligible. Mr. Adams, who has some strong ideas, finds fault because the President is not for life, and because the Presidency does not devolve by hereditary succession. Too long a con-

tinuance in the Presidency would probably introduce some attempt at foreign influence, such as that in Poland and Holland. . . .

1. Printed: Stan V. Henkels Catalogue No. 1115 (October 1914), 110-11. Paine (1737-1809) emigrated from England to America in 1774 and soon became a champion of American rights against the British Crown. During the Revolution he wrote *Common Sense*, the *Crisis* essays, and *Public Good*. In the 1780s he was a pamphleteer for Pennsylvania's Republican Party. In early 1787 he sought a subsidy from the Pennsylvania legislature to build an iron bridge over the Schuylkill River. To improve Paine's chances, Benjamin Franklin advised him to journey to Europe and obtain the endorsement of the Royal Academy of Sciences in Paris and the Royal Society in London. Paine left for Europe in April 1787. George Clymer (1739-1813), a Philadelphia merchant, was a delegate to the Pennsylvania Assembly. He had been a delegate to the Constitutional Convention and signed the Constitution.

Thomas Jefferson to Uriah Forrest
Paris, 31 December¹

Just before I received your favour asking my opinion on our new proposed constitution, I had written my sentiments on the subject fully to my friend $\overline{\text{m}}\text{r}$ Madison.² they concurred so exactly with yours that the communication of them could answer no end but that of shewing my readiness to obey you. I therefore extracted that part from my letter to him, & have reserved it for a good private conveyance which has never offered till now by $\overline{\text{m}}\text{r}$ Parker. tho I pretend to make no mystery of my opinion, yet my distance from the scene gives me too much diffidence in my views of it to detail them lengthily & publicly. this diffidence is increased by my high opinion of the abilities & honesty of the framers of the constitution. yet we cannot help thinking for ourselves. I suppose I see much precious improvement in it, but some seeds of danger which might have been kept out of sight of the framers by a consciousness of their own honesty & a presumption that all succeeding rulers would be as honest as themselves. make what use you please of the contents of the paper, but without quoting it's author, who has no pretension to see what is hidden from others.

[Enclosure]

"I like much the general idea of framing a government, which should go on of itself peaceably, without needing continual recurrence to the state legislatures. I like the organization of the government into Legislative, Judiciary, & Executive. I like the power given the Legislature to levy taxes, and, for that reason solely, I approve of the greater house being chosen by the people directly. for though I think a house so chosen, will be very far inferior to the present Congress, will be very illy qualified to legislate for the Union, for foreign nations &c. yet this evil does not weigh against the good of preserving inviolate the fundamental principle that the people are not to be taxed but by representatives cho-

sen immediately by themselves. I am captivated by the compromise of the opposite claims of the great & little states, of the latter to equal, and the former to proportional influence. I am much pleased too with the substitution of the method of voting by persons, instead of that of voting by states: and I like the negative given to the Executive conjointly with a third of either house; though I should have liked it better had the Judiciary been associated for that purpose, or invested separately with a similar power. there are other good things of less moment. I will now tell you what I do not like.—First, the Omission of a Bill of rights, providing clearly, & without the aid of sophisms, for freedom of religion, freedom of the press, protection against standing armies, restriction of monopolies, the eternal & unremitting force of the habeas corpus laws, & trials by jury in all matters of fact triable by the laws of the land, & not by the law of Nations. to say, as m̄r Wilson does, that a bill of rights was not necessary, because all is reserved in the case of the general government which is not given, while in the particular ones all is given which is not reserved, might do for the audience to which it was addressed: but it is surely a gratis dictum, the reverse of which might just as well be said; & it is opposed by strong inferences from the body of the instrument, as well as from the omission of the clause of our present confederation which had made the reservation in express terms. it was hard to conclude because there has been a want of uniformity among the states as to the cases triable by jury, because some have been so incautious as to dispense with this mode of trial in certain cases, therefore the more prudent states shall be reduced to the same level of calamity. it would have been much more just & wise to have concluded the other way, that as most of the states had preserved with jealousy this sacred palladium of liberty, those who had wandered should be brought back to it: and to have established general right rather than general wrong. for I consider all the ill as established, which may be established. I have a right to nothing which another has a right to take away; & Congress will have a right to take away trials by jury in all civil cases. let me add that a bill of rights is what the people are entitled to against every government on earth, general or particular; & what no just government should refuse, or rest on inferences.

The second feature I dislike, & strongly dislike, is the abandonment in every instance of the principle of rotation in office, & most particularly in the case of the President. Reason & Experience tell us that the First magistrate will always be re-elected if he may be re-elected. he is then an officer for life. this once observed, it becomes of so much consequence to certain nations to have a friend or a foe at the head of our affairs that they will interfere with money & with arms. a Galloman or

an Angloman will be supported by the nation he befriends. if once elected, and at a 2d. or 3d election outvoted by one or two votes, he will pretend false votes, foul play, hold possession of the reins of government, be supported by the states voting for him, especially if they be the central ones, lying in a compact body themselves & separating their opponents; and they will be aided by one nation in Europe, while the majority are aided by another. the election of a President of America some years hence will be much more interesting to certain nations of Europe than ever the election of a king of Poland was. reflect on all the instances in history, antient and modern, of elective monarchies, and say if they do not give foundation for my fears. the Roman emperors, the Popes while they were of any importance, the German emperors till they became hereditary in practice, the kings of Poland, the Deys of the Ottoman dependancies. it may be said that if elections are to be attended with these disorders, the seldomer they are repeated the better. but experience says that to free them from disorder they must be rendered less interesting by a necessity of change. no foreign power, nor domestic party, will waste their blood & money to elect a person who must go out at the end of a short period. the power of removing every fourth year by the vote of the people is a power which they will not exercise. and if they were disposed to exercise it they would not be permitted. the king of Poland is removeable every day by the diet. but they never remove him. nor would Russia, the emperor [&c.?] permit them to do it.—smaller objections are the Appeal on matters of fact as well as law; & the binding all persons, Legislative, Executive, & Judiciary by oath to maintain that constitution. I do not pretend to decide what would be the best method of procuring the establishment of the manifold good things in this constitution, & of getting rid of the bad. whether by adopting it in hopes of future amendment; or, after it shall have been duly weighed & canvassed by the people, after seeing the parts they generally dislike, & those they generally approve, to say to them, ‘We see now what you wish. you are willing to give to your federal government such & such powers: but you wish at the same time to have such & such fundamental rights secured to you, & certain sources of convulsion taken away. be it so. send together your deputies again. let them establish your fundamental rights by a sacrosanct declaration, and let them pass the parts of the constitution you have approved. these will give powers to your federal government sufficient for your happiness.’ This is what might be said, and would probably produce a speedy, more perfect & more permanent form of government. at all events, I hope you will not be discouraged from making other trials, if the present one should fail. we are never permitted to despair of the commonwealth.—I have thus told you

freely what I like, & what I dislike [merely as a?] matter of curiosity, for I know it is not in my power to offer matter of information to your judgment, which has been formed after hearing & weighing every thing which the wisdom of man could offer on these subjects. I own I am not a friend to a very energetic government. it is always oppressive. it places the governors indeed more at their ease, at the expence of the people. the late rebellion in Massachusets has given more alarm than I think it should have done. calculate that one rebellion in 13. states in the course of 11. years, is but one for each state in a century & a half. no country should be so long without one nor will any degree of power in the hands of government prevent insurrections. in England, where the hand of power is heavier than with [us?] there are seldom half a dozen years without an insurrection. in France, where it is still heavier, but less despotic, as Montesquieu supposes, than in some other countries, and where there are always 2. or 300,000 men ready to crush insurrections, there have been three in the course of the three years I have been here, in every one of which greater numbers were engaged than in Massachusets, & a great deal more blood was spilt. in Turkey, where the sole nod of the Despot is death, insurrections are the events of every day. compare again the ferocious depredations of their insurgents with the order, the moderation & the almost self extinguishment of ours. and say finally whether peace is best preserved by giving energy to the government, or information to the people. this last is the most certain & the most legitimate engine of government. educate & inform the whole mass of the people. enable them to see that it is their [interest to?] preserve peace & order, & they will preserve it. and it [requires no very?] high degree of education to convince them of this. they are [the only sure?] reliance for the preservation of our liberty.—after all, it is my [principle?] that the will of the majority should prevail. if they approve the proposed constitution in all it's parts, I shall concur in it chearfully, in hopes they will amend it whenever they shall find it works wrong. this [reliance?] cannot deceive us, as long as we remain virtuous; & I think we [shall be?] that, as long as agriculture is our principal object, which will be the case while there remain vacant lands in any part of America. [when?] we get piled upon one another in large cities, as in Europe, we shall become corrupt as in Europe, and go to eating one another as they do there.—I have tired you by this time with disquisitions [which?] you have already heard repeated by others a thousand & a thousand times, & therefore shall only add assurances of the esteem [&?] attachment, with which I have the honor to be, Dear Sir.”

1. RC, Andre deCoppet Collection, Princeton University. This letter is a reply to Forrest's letter of 11 December (above). The enclosure is a press copy in the Jefferson Papers

in the Library of Congress. It is an extract, with significant alterations, from Jefferson's letter of 20 December to James Madison (above).

2. Jefferson had actually received Forrest's letter on 17 December, and he had not written to Madison until 20 December.

**Marquis de Lafayette to George Washington
Paris, 1 January 1788 (excerpt)¹**

. . . It is Needless for me to tell You that I Read the New Proposed Constitution² With An Unspeakable Eagerness and Attention—I Have Admired it, and find it is a Bold, large, and Solid frame for the Confederation—the Electionneering Principles With Respect to the Two Houses of Congress are Most Happily Calculated—I am only Affraid of two things—1er the Want of a declaration of Rights 2ly the Great Powers and Possible Continuance of the President, Who May one day or other Become a State Holder—Should My observations be well founded, I Still am Easy on two Accounts—The first that a Bill of Rights May Be Made if Wished for By the People Before they Accept the Constitution—My other Comfort is that You Cannot Refuse Being Elected President—and that if You think the Public Vessel Can Stir Without Such Powers, You Will Be able to lessen them, or Propose Measures Respecting the Permanence, Which Cannot fail to Insure a Greater Perfection in the Constitution, and a New Crop of Glory to Yourself—But in the Name of America, of Mankind at large, and Your Own fame, I Beseech You, my dear General, Not to deny Your Acceptance of the office of President for the first Years³—You only Can Settle that Political Machine, and I foresee it Will furnish An Admirable Chapter in Your History. . . .

1. RC, Hubbard Collection, Lafayette College, Easton, Pa. Printed: Louis Gottschalk and Shirley A. Bill, eds., *The Letters of Lafayette to Washington, 1777-1799* (2nd ed., Philadelphia, 1976), 334-36. Lafayette misdated the letter "January the 1st 1787."

2. Washington had sent Lafayette a copy of the Constitution on 18 September 1787 (Fitzpatrick, XXIX, 276-77).

3. For Washington's reply of 28 April, see *ibid.*, 479-80.

**John Brown Cutting to William Short
London, c. 9 January¹**

Without farther introduction I proceed, my dear sir, to fulfil that threat against your patience which I fear You think clouded the close of my last tedious letter by Col Trumbull.² I am now to combat your second main objection to the new Constitution namely the authority given by it, for nine states only, in case of refusal from the other four to confirm, a fresh league with each other notwithstanding such dissent of the minority. This You say appears to You "an infraction of a confedera-

tion solemnly entered into and unchangeable but by the consent of all the parties confederating”.

That the forms of the old confederation will be absorp'd by the nine states which adopt the new one, so far at least as relates to themselves seems indisputable. But at the same time is it not as clear that most of the essential objects and all the obligations of the former are not only preserved but better secured by the latter? And even supposing the largest number of dissenting states has any one of the discordant *four* just cause to murmur at the new motions and measures of the harmonious *nine* while it remains optional with themselves to fulfil their federal duties conformably to the regulations either of the former confederation or the latter? Doubtless there might arise some difficulties in adjusting the former and settling future requisitions of the new Congress, and also in other matters relative to the States so dissenting, but probably these will neither be insuperable nor indeed so embarrassing as those which resulting from the radical defects of the old confederation have distressed & distracted our national affairs ever since the peace.

But be this as it may the confederation of 1781 was from the first formation of it unsustainable—being unseason'd by wise organization or sound constitutional principle—and in short built upon the unstable breath of State Legislatures who might and did puff its contexture and edicts into empty air at pleasure. That shadowy compact was the illicit offspring of sudden necessity. In the heat of a wonderful war it arose like an Exhalation. And during the wholesome agitation of the political tempest it nourish'd the tree of liberty and assisted the growth of Independence. But when the storm subsided and these noble productions had taken root to the centre and sprung up to heaven in beauty then this same confederation became a stagnant sickly vapour tainting their atmosphere without fertilizing their soil.

Since the accomplishment of the revolution time has enabled and experience compel'd the citizens of America to examine both the authority and the skill of their agents in this business of confederating. The result of the scrutiny seems to be a general conviction that a sense of common danger was the chief cement of the system which having been melted by the gales of peace the structure has become really soluble in its own weakness. But even if such a truth were not, as it is, universally acknowledged; yet if we put the credentials of our rulers in 1781 to the test; if we dare to try the extent of their authority by the criterion of *first principles*; if in our researches after truth on this point we follow *these* whithersoever they will guide us, may it not be safely and fairly asserted that the States of South Carolina Virginia, New Jersey, Connecticut, Rhode-Island and New Hampshire even from the date of

Independence to that of the confederation to which we are objecting, never invested their respective Legislatures with sufficient powers permanently to form and ratify such a compact.

Speaking with correct, critical constitutional propriety even the *internal* acts of legislation performed during this period by the administrations within those states respectively have been little better than temporary expedients—recommended by irregular trustees and legislators, whose doings being prop'd on old colony customs and habits were accepted in a crisis & impending calamity. And this for the best reason and the most cogent because when the existence of each republic was in hazard public safety was the prime object of all. The people of the states above enumerated therefore wisely postponed the exertion of their unalienable prerogative, their essential and fundamental right, namely that of calmly choosing soberly organizing and solemnly establishing a permanent constitution and form of Government. If this be so will it not follow a fortiori that at any rate these *six* out of the thirteen parties to the league of 1781 were not then sufficiently authorized to bind their principals by absolute, *exterior*, unchangeable acts of the most transcendent nature.

But even admitting for the sake of argument (what I hope the free citizens of our country will not concede in any other mode,) to wit, that all political power is not derived from the people but that when they authorize their servants to manage one portion or pittance of their property, that these same servants thereby acquire the dominion of the residue, still I contend, both from the spirit and letter of the old federal code that it was the true intent of the parties confederating and this at the very moment when the subscription of the articles was made that these shou'd be changed whenever the propriety of such mutation was manifestly sustain'd by the general opinion of the Union.

True it is the thirteenth article declares the inviolable observance of all the foregoing articles by every State and that the union shall be perpetual and without alteration—but then—what follows?—“unless such alteration be agreed to in a Congress of the United States and be afterwards confirmed by the legislatures of every state”. If I interpret this article aright the high contracting parties with suitable diffidence of perfection in their adopted plan, did actually conceive notwithstanding the immortality of the ink in which it was steeped, that this immutable compact of theirs might in process of time require both mutation and amendment, and accomodating their lofty labour to this humble conception did provide a specific mode of commencing alterations, and also a criterion by which the same being tried might become as legitimate articles as any in the code.

Furthermore they either did suppose this mode of alteration practicable or they did not suppose it practicable. If they did suppose it practicable, dear-bought experience has detected their mistake—and demonstrated as well in that important case of the impost³ as in the very measure of calling a federal convention to amend the confederation, when every other expedient to attain either object proved abortive—I say demonstrated that the unanimity of the thirteen legislatures with entire precision on any one given point is utterly unattainable.

But if they really did suppose it *impracticable* and craftily meant forever to close every avenue to future improvement—if they actually meant to fix our federal government like that of the Netherlands, encumbered with such bungling machinery as might ever hinder its best operations, and forever fetter its most beneficial faculties—then ought we not all doubly to rejoice that the late Convention at Philadelphia have appealed to an higher authority than that with which either Congress or any of our State Legislatures are invested? For surely if genuine republicans, lovers of rational liberty and good order in society, approve and protect all suitable barriers in the Constitutions of their Country against popular rashness or fickleness ought they not likewise with equal energy to oppose, nay hasten to exterminate such mischiefs in the blossom as might otherwise forever propagate themselves throughout that system wherein from its first crude sketch & formation every gate of improvement is shut and every peaceful path of emendation wholly obstructed?

So far as a temporary organization of the general government was necessary in 1781 to render our opposition to Great Britain energetic, so far the federal organization and compact made under the authority of the State Legislatures was valid. But by the most ample construction of the powers and authority vested in those thirteen bodies which of them cou'd pass any ordinance so transcendent as to be irrevocable by their successors. Coud any of them in the plenitude of their delegated omnipotence impart attributes to another, and a new Legislative, with the shadow of which their own respectively were never endowed? Yet if the truth beforemention'd be but admitted—and who can deny it? namely that perfect unanimity among the thirteen legislatures on any given point of importance is now unobtainable then conformably to the entire support of that system the perpetuity of the first confederation is as clearly establish'd as if the parties confederating had formally enacted the same when they subscribed the Instrument. Can aught more demonstrably prove, that when the temporary, circumscribed, separate legislatures empowered their delegates to ratify such a confederation as however defective and inadequate to its declared uses and purposes,

must and wou'd thereby become unchangeable, they quite overstep'd the limits of their authority?

Hence, if for no other reason, the federal ordinance quond hoc-like any other unconstitutional state ordinance-became a nullity.

Thus it may be perceived that the parties at the time when they confederated either meant to provide for requisite mutations in futuro or they transgress'd the utmost extent of their trust. For my own part, I really attribute to them as well in forming as in executing the Instrument of confederation integrity of intention and purity of purpose. But altho they meant not to do, yet if in effect they did, more than they had just power to do will chastity of intent or any rectitude of motive, confer upon them plenary powers to make such an act valid or binding upon the people? Must unborn millions the posterity of their constituents continue throughout all generations to submit to the worst political disorders merely because these worthy patriots meant well? Merely because they intended perhaps in the moments of our national birth by one laudable amplification of their popular prerogatives to extinguish or prevent instead of nourishing and perpetuating all those inconveniences and disasters, which having been feared or felt through the Union one now universally admitted to spring from the heterogeneous elements & crude composition of that very code which was expressly contrived against, and supposed to contain every remedy for every such national distemper whatsoever?

But waving remarks of this kind, what if we consider the subject in another shape, what if we consider the situation of some of the parties, and that too at the very moment when the confederation was completing to the situation of any Individual who is compel'd to sign his name to a contract while actually under duress? Suppose I were to quote Maryland for instance. Suppose I had her permission to declare the truth and to say, that nothing less than the perilous predicament of public affairs urged & pressed upon Her legislature by remonstrances, expostulations nay almost menaces from Congress, from her sister states and from the Minister of our principal foreign ally, cou'd finally force her even in so fearful a crisis to become a reluctant party to the confederation of 1781.

Again sir if we examine the question differently and scrutinize the context of the league and covenant as mere matter of law, in this view we must soon discern and acknowledge its lameness and imbecility. It is quite destitute of one essential absolutely necessary in the nature and composition of every law. There is no penalty annexed to the ordinance

to compel obedience to or punish the breach of any one article it purports to establish. It has not that vindicatory sanction without which there is no law.

But further, even relinquishing these several grounds of argument touching the context and the execution of that Instrument, yet whether it be considered in the nature of a covenant among Individuals as a league among nations, or a law of the land, still I say since some of the parties to it at all times and all the parties at some times broke the covenant, disobeyed the law—continually transgressed and never completely fulfil'd the treaty; at the same time likewise acknowledging no tribunal upon earth competent to decide offences against or compel the performance of any one article in it—I repeat it—under all these circumstances (and all these we know attach to the subject)—wou'd it not furnish a glaring solecism a new political absurdity if this principle shou'd be establish'd, namely that any such thirteen parties shou'd forever be manacled by any bargain, league or law, every article of which every one of them might ad libitum with impunity infract—one stipulation only excepted—to wit that the said bargain law or league shou'd be inviolable, perpetual and unalterable.

Away then with the indispensable necessity of every technical self-requir'd, rigid punctilio to the repeal of a Code thus feebly formed thus carelessly executed, thus extemporaneously created and miserably supported. What sir shall the ignorance perverseness or corruption of the insignificant legislature of the most petty state in the union, and that too one which has never received true constitutional authority from the people in any case interpose its sullen and silly *veto* in this most important of all cases? Shall the rank crude narrow-minded or misinformed part of so puny and minute a Republic as Rhode Island for the notable purpose of preserving entire the mere letter of a doubtful phrase in the casual confederation of 1781, check the most requisite reformation of the general government and consequently the vigorous growth and prosperity of a whole new World? Yet must the affirmative be gravely maintained if You insist upon the position “that the old confederation is unchangeably but by the consent of all the parties confederating”?

But to return to my former ground of argument no confederation ought to be establishd or deem'd permanently constitutional, unless framed by a convention of the states expressly delegated for this purpose only—or at least until the constitution design'd for the general government of the union be ratified by the people of each state which chuses to be regulated by the same. The old Confederation was unseasond either by the one sanction or the other.

The old Confederation then was so far defective as to be destitute of a solid basis, destitute of a coercive principle, destitute of a definite and efficient jurisdiction. And in one word instead of being a clear well-digested, firm and practical system, possessing and imparting to Congress ballanced, distributed powers, or duly organized capacities, or functions fitted for the wise enactment and energetic administration of laws for a mighty Empire, it was but a cramped creature of precarious speculation, engendered in moments of peril from the cold ooings of the jealous state sovereignties, and evermore crawling contemptibly like a moth through the union without federal force or faculties.

The proposed confederation on the contrary seems to comprehend the most excellent utilities, and to extinguish the most pernicious defects of the former;—but a more particular statement both of the one and the other, together with suitable apologies for the wearisome prolixity of this letter must at present be postponed. Meanwhile permit me to introduce and recommend Mr Shippen to your notice and civilities

1. RC, Short Papers, DLC. The place and date of writing are not indicated, but Cutting probably wrote the letter from London. Short endorsed the letter as received on 15 January. Thomas Lee Shippen, who is mentioned in this letter and who carried it to Paris, was prepared to leave London about 9 January (Boyd, XII, 501). The letter is a continuation of Cutting's letter of 13 December 1787 (above).

2. Colonel John Trumbull of Connecticut (1756–1843) was a student of Benjamin West. He was in Paris to paint portraits of French officers who had served at Yorktown.

3. Impost of 1781 (CDR, 140–41).

William Stephens Smith to Thomas Jefferson London, 16 January (excerpt)¹

. . . I have the pleasure of informing you that our last accounts from Boston & Philadelphia state that the proposed confœderation, was undergoing a very accurate investigation, upon just liberal & patriotic principles, I have not the least objection nay I wish it may be altered, in some points, but I seriously would (notwithstanding its defects) rather it should be adopted as it is—than be entirely laid aside,—for I am not the least apprehensive that our Countrymen for the Century to come at least, will submit to tyrannical establishments, I am rather fearfull they are too generally advocates for an unbounded freedom of action & the liberty of putting such constructions upon public acts as pro:tem: are best suited to their particular views & interests

1. RC, Jefferson Papers, DLC. Printed: Boyd, XII, 517–18. A copy of Smith's letter to Jefferson, 3 December 1787, was enclosed. See Smith to Jefferson, 3 December 1787, note 1, above.

John Adams to Cotton Tufts
London, Grosvenor Square, 23 January¹

So many Things appear to be done, when one is making Preparations for a Voyage, especially with a Family, that you must put up with a short Letter in answer to yours.

We shall embark in March on board of the ship *Lucretia* Captn Calahan, and arrive in Boston as soon as We can: till which time I must suspend all Requests respecting, my little affairs. Your Bills shall be honoured as they appear.

You are pleased to ask my poor opinion of the new Constitution, and I have no hesitation to give it.² I am much Mortified at the Mixture of Legislative and Executive Powers in the Senate, and wish for Some other Amendments.—But I am clear for accepting the present Plan as it is and trying the Experiment. at a future Time Amendments may be made. but a new Convention at present, would not be likely to amend it. You will receive, perhaps with this, a third Volume of my Defence, in which I have spoken of the new Constitution, in a few Words.³ This closes the Work, and I believe you will think I have been very busy. I have rescued from everlasting oblivion, a number of Constitutions and Histories, which, if I had not submitted to the Drudgery, would never have appeared in the English Language. They are the best Models for Americans to Study, in order to Show them the horrid Precipice that lies before them in order to enable and Stimulate them to avoid it.

I am afraid, from what I See in the P[apers?] that Mr Adams⁴ is against the new Plan. if he is, he will draw many good Men after him, and I Suppose place himself at the head of an opposition. This may do no harm in the End: but I should be Sorry to See him, worried in his old Age.

Of Mr Gerrys Abilities, Integrity and Firmness I have ever entertained A very good opinion and on very solid Grounds.—I have seen him and Served with him, in dangerous times and intricate Conjunctions. But on this occasion, tho his Integrity must be respected by all Men, I think him out in his Judgment.—Be so kind as to send him in my name a Set of my three Volumes.

1. RC, Montague Collection, NN.

2. On 28 November 1787 Tufts had written Adams: “The proposed Plan I suspect will meet with much opposition in this Commonwealth [Massachusetts] it has its violent Advocates & its violent Opposers—Too much Temper is discovered on both Sides—It would give me great Pleasure to have your Sentiments (for my own private Use if not otherways permitted) upon this proposed Constitution—and I flatter myself that you will not withhold from your Friend that Light, wch. your extensive Knowledge of Governments & long Experience enables you to afford” (Adams Family Papers, MHi).

3. In this volume of his *Defence of the Constitutions* (CC:16), which had just been published in London, Adams wrote that the Constitution was “without all partiality or prejudice, if not the greatest exertion of human understanding, the greatest single effort of national deliberation that the world has ever seen. That it may be improved, is not to be doubted, and provision is made for that purpose, in the report itself. A people who could conceive, and can adopt it, we need not fear will be able to amend it, when by experience its inconveniences and imperfections shall be seen and felt.” Adams’s comments were printed in the *New York Journal* on 23 February and reprinted in seventeen newspapers by 9 May: N.H. (1), Mass. (7), R.I. (1), Conn. (2), N.J. (1), Pa. (2), Md. (2), S.C. (1).

4. Adams refers to his cousin, Samuel Adams. See *Massachusetts Gazette*, 28 December (CC:388).

Thomas Jefferson to William Stephens Smith Paris, 2 February (excerpt)¹

. . . I am glad to learn by letters which come down to the 20th. of December that the new constitution will undoubtedly be received by a sufficiency of the states to set it a going. were I in America, I would advocate it warmly till nine should have adopted, & then as warmly take the other side to convince the remaining four that they ought not to come into it till the declaration of rights is annexed to it.² by this means we should secure all the good of it, & procure so respectable an opposition as would induce the accepting states to offer a bill of rights. this would be the happiest turn the thing could take. I fear much the effects of the perpetual re-eligibility of the President. but it is not thought of in America, & have therefore no prospect of a change of that article. but I own it astonishes me to find such a change wrought in the opinions of our countrymen since I left them, as that three fourths of them should be contented to live under a system which leaves to their governors the power of taking from them the trial by jury in civil cases, freedom of religion, freedom of the press, freedom of commerce, the habeas corpus laws, & of yoking them with a standing army. this is a degeneracy in the principles of liberty to which I had given four centuries instead of four years. but I hope it will all come about. we are now vibrating between too much & too little government, & the pendulum will rest finally in the middle.

1. FC, Jefferson Papers, DLC. Printed: Boyd, XII, 557–59.

2. Jefferson reiterated this strategy in letters to James Madison and Alexander Donald, dated 6 and 7 February, respectively (Boyd, XII, 568–70, 570–72). In June 1788 Patrick Henry and George Mason alluded to Jefferson’s letter to Donald in the Virginia Convention (*ibid.*, XIII, 354n–55n).

Marquis de Lafayette to George Washington
Paris, 4 February (excerpts)¹

Your letters Become More and More distant, and I Anxiously Wish for Your Speedy Appointment to the Presidency, in order that You May Have a More Exact Notice of the Opportunities to Write to Me. . . .

We are Anxiously Waiting for the Result of the State Conventions—the New Constitution Has Been Much Examined and Admired By European Philosophers—it Seems the Want of a declaration of Rights, of An Insurance for the trial By juries, of a Necessary Rotation of the President, are, With the Extensive Powers of the Executive, the Principal Points objected to.—Mr Jefferson and Myself Have Agreed that those objections Appear'd to Us Both Well Grounded, But that None Should Be Started Untill Nine States Had Accepted the Confederation—then Amendments, if thought Convenient, Might Be Made to take in the dissidents—as to What Respects the Powers and Possible Permanency of the President I am Easy, Nay I am Pleased With it, as the Reducing of it to What is Necessary for Energy, and taking from it Every dangerous Seed Will Be a Glorious Sheet in the History of My Beloved General. . . .

1. RC, Hubbard Collection, Lafayette College, Easton, Pa. Printed: Louis Gottschalk and Shirley A. Bill, eds., *The Letters of Lafayette to Washington, 1777-1799* (2nd ed., Philadelphia, 1976), 337-39.

Abigail Adams Smith to John Quincy Adams
London, 10 February (excerpt)¹

. . . respecting your desire that your father Should determine to Spend the remainder of his days in retirement—I cannot agree with you in this wish—it is in his Power to do His Country Essential Service—by assisting in Her Councils—by His opinions, advice, & recommendations, he has it *I beleive* in his Power to do as much perhaps *the most* towards establishing her Character as a respectable Nation—of any Man in America—and Shall he retire from the World and bury himself amongst his Books—and Live only for himself?—No—I wish it not—I have no desire that he should be chosen Governor of the State—let those Possess that station who are ambitiously grasping at a Shadow—which I Consider the Honour attendant upon that office to be—but I do hope—upon the establishment of a New Constitution—to see Him in some respectable and usefull Office under it—the Americans in Europe say he will be Elected Vice President—besides my Brother independant of other important Considerations—he would not I am well Convinced be Happy in Private Life—you will before he arrives in America have seen two other Vollumes of His Book²—and perhaps you will hear from him a sys-

tem of Government which you may not expect—he is of opinion that some *new* form of Government for our Country is necessary—he does not wholly approve of the one which has been offered—but he thinks that the People had better adopt it as it is—and then appoint a new Convention to make such alterations as may prove necessary—He wishes they Had Entitled the Cheif Magistrate to a greater degree of independance that they had given him the *Sole* appointment of all Offices—that they had made provision for a Privy Councill—either of His own appointment or chosen by the Senate—and some others which you will hear from himself—if the system at present under Consideration is not adopted I am of opinion that he will assist at a future Convention and have a principle Hand in the framing One which may be adopted—most of the Americans now in Europe are in favour of it—being well Convinced that a Change is absolutely necessary to the respectable Establishment of our Country in the Eyes of Europe and her importance as a Nation. . . .

1. RC, Adams Family Papers, MHi. Abigail Adams Smith (1765–1813), the sister of John Quincy Adams, had married William Stephens Smith in London in 1786. She and her husband returned to America in May 1788.

2. For the *Defence of the Constitutions*, see CC:16.

APPENDIX III

Quaker Opposition to the Protection of Slavery in the Constitution

On 20 October 1774 the First Continental Congress prohibited the importation of slaves into America (JCC, I, 75–80). This prohibition, incorporated in the Articles of Association, was primarily an economic measure aimed at obtaining concessions from Great Britain. Within a year, every state adopted the Association, although there was resistance in Georgia to the slave-trade provision. In April 1776 the Second Continental Congress, in a step toward independence, opened American ports to the world, but resolved that no slaves be imported. Thomas Jefferson condemned the slave trade in his draft of the Declaration of Independence, but this passage was deleted, according to Jefferson, “in complaisance to South Carolina & Georgia,” which wanted to continue the slave trade. Jefferson also charged that “our Northern brethren” supported the deletion because “they had been pretty considerable carriers” of slaves (Boyd, I, 314–15). Nevertheless, Americans respected the Association and during the Revolution the slave trade was almost non-existent. Moreover, at this time several states abolished slavery, prohibited the slave trade, or strengthened such laws as had been adopted in the colonial period.

After the peace of 1783 merchants and planters revived the slave trade. Consequently, the Society of Friends (Quakers), particularly in Pennsylvania, New York, and New England, who had long opposed slavery, focused on the abolition of the slave trade. They did so because it was especially odious and because it was a more attainable goal to reinstitute the ban on the slave trade than to obtain the total abolition of slavery.

In October 1783 the Yearly Meeting of Quakers for Pennsylvania, New Jersey, Delaware, Western Maryland, and Western Virginia addressed Congress, deploring the “avaricious motives” that prompted the renewal of the African slave trade, “contrary to every humane and righteous consideration, and in opposition to the solemn declarations often repeated in favour of universal liberty.” The address, signed by 536 Quakers, asked Congress to interpose “to discourage and prevent so obvious an Evil” (PCC, Item 43, Remonstrances and Addresses to Congress, 1776–88, DNA).

The petition was delivered to Congress on 8 October and submitted to a committee on 18 December. The committee reported on 7 January 1784 that Congress recommend to the states that they “enact such laws as to their wisdom may appear best calculated” to prohibit the slave trade as outlined in the Articles of Association of 1774. Congress rejected the report the following day (PCC, Item 20, Reports of Committees on State Papers, 1777–88, II, 169, DNA).

The Yearly Meeting wrote to Richard Henry Lee, the president of Congress, on 26 January 1785. It explained that it had hoped that a congressional declaration against the slave trade might influence the states to prohibit the trade. The Yearly Meeting asked Lee to revive the matter, and it sent him copies of Quaker Anthony Benezet’s pamphlet on oppressed Africans, which it wanted distributed to every delegate to Congress (PCC, Item 43, DNA. For Benezet’s pamphlet, see Evans 18353.). Congress apparently did not reconsider the slave-trade issue.

Quakers and others were more successful in prohibiting the slave trade on the state level. Between the Peace of 1783 and early 1787, Maryland, Rhode Island, New York, New Jersey, Delaware, and South Carolina passed laws prohibiting the slave trade or tightening earlier laws, while North Carolina laid a prohibitive duty on imported slaves. In June 1787 Quakers petitioned the legislatures of Massachusetts and Rhode Island to strengthen their laws against the slave trade. Rhode Island was especially important because it had been the center of the overseas slave trade.

Restricting the slave trade on a state-by-state basis was a slow process, and Quaker influence was limited. In fact, two states (Georgia and South Carolina) had refused to give Congress the power to regulate the slave trade in 1786 (PCC, Item 76, State Acts, DNA). Thus, the Constitutional Convention offered an opportunity to ban the slave trade on a continental scale. In March 1787 Rufus King, a Massachusetts delegate to the Convention, suggested that the slave trade, as a part of commerce, "would be a material Subject, whether some hints thrown before that body on that business might not be useful" (Edmund Prior to James Pemberton, 18 March, Pemberton Papers, PHi). In early June the Pennsylvania Society for Promoting the Abolition of Slavery prepared a petition to the Convention, asking for an end to the slave trade (see *Pennsylvania Gazette*, 5 March 1788, Mfm:Pa. 489). The petition was given to Tench Coxe, a secretary of the Society, who gave it to Benjamin Franklin, the Society's president and a member of the Convention. Coxe, however, strongly advised Franklin against raising the issue in the Convention (Coxe to James Madison, 31 March 1790, Rutland, *Madison*, XIII, 132), and there is no evidence that the petition was presented.

Several parts of the Constitution alienated the antislavery forces. The fugitive slave clause (Article IV, section 2, clause 3) provides that "No Person held to Service or Labour in one State, under the Laws thereof, escaping into another, shall, in Consequence of any Law or Regulation therein, be discharged from such Service or Labour, but shall be delivered up on Claim of the Party to whom such Service or Labour may be due." Article I, section 9, clause 1 provides that the slave trade "shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight, but a Tax or duty may be imposed on such Importation, not exceeding ten dollars for each Person." Article V forbade any amendment to the Constitution prior to 1808 that might affect the slave-trade clause.

Despite these provisions, Quakers generally favored adoption of the Constitution. But Quakers were not active in the politics of ratification, partly because of the slavery provisions, but more importantly because of their general policy not to engage in politics. This policy was specifically referred to in the Pennsylvania Yearly Meeting in the fall of 1787 in reaction to the active participation of a number of Quakers. The Yearly Meeting instructed its members that "our union, and safety depended on our quietude, & forbearance to intermix with the people in their political consultations, and debates on the present occasion" (James Pemberton to Moses Brown, 16 November, below).

Quakers, however, continued their efforts to ban the slave trade in the states. They believed that the slave provisions of the Constitution would "not restrain the Assemblys of the Separate States from passing any prohibitory laws which they may judge expedient to abolish that infamous traffic" (James Pemberton to John Pemberton, 3 May 1788, Mfm:Pa. 667). As a result of the efforts of Quakers and other opponents of slavery, five states—Rhode Island, New York, Massachusetts, Pennsylvania, and Connecticut—passed laws prohibiting the slave trade or strengthening existing laws between October 1787 and October 1788.

James Pemberton to John Pemberton
Philadelphia, 20 September (excerpt)¹

. . . The Expectation of our Politicians has been much turned towards the determination of this Convention, the members of which being under an injunction of Secrecy, their proceedings have been kept very close; how they will now relish the Plan, time will make manifest, but the late Congress had become so very low in general estimation, a Change with enlarged powers, & a proper balance seemed to be absolutely necessary, but yet, unless there is an increase of Virtue among the People, all the efforts of human wisdom, & policy will avail little to promote their real happiness, and welfare—I have given thee these outlines of the new plan of a Fœderal Government, with a view to mention, that we entertained a hope, that it's establishment would have been more conspicuous on the principles of Equity & moral Justice by a Provision against the iniquitous Slave trade, but the influence of the Southern Governmts has diverted them from that very important Object, so far as to obtain a prohibition against the Congress meddling therewith for 21 years, as appears by the ninth Section of the first Article of the Plan—which Says—viz.

“The migration, or importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by Congress prior to the year 1808, but a [tax] or duty may be imposed on such importation, not exceeding ten dollars for each person” which is further defended by a fifth Article, which after liberty given for the mode of proposing future amendments to this intended Constitution, sets forth a Proviso, “that no amendment which may be made prior to the year 1808 shall in any manner affect the first and fourth clauses in the ninth Section of the first Article—” . . .

1. RC, Pemberton Papers, PHi. Addressed: “John Pemberton Care of Daniel Mildred Banker London.” Endorsed: “Philadelphia 9 mo; 20. 1787. From my Brother Jas. Pemberton Received at Edinburgh 12th mo; 21st.” James Pemberton (1723-1809) and his brother John (1727-1795) were leaders of the Quaker community and the antislavery movement in Pennsylvania. In 1787 James Pemberton was a vice president of the Pennsylvania Society for Promoting the Abolition of Slavery. John Pemberton was in Scotland on a preaching tour.

Robert Wain to Richard Wain
Philadelphia, 3 October (excerpt)¹

. . . Thee wou'd not censure ye Convention so severely if thee knew every circumstance respecting ye Negroes—by far ye greatest part wished to abolish that trade entirely, & a resolution was offer'd for that purpose but ye Southern Delegates positively refus'd their consent & threatened

to retire if ye motion was not withdrawn—and as their absence would have broken up ye House, it was thought best to withdraw it, and introduce another (which was carried) & which will put it in ye power of Congress at ye end of 21 years to put a total stop to that iniquitous traffic—and as each state is still at liberty to enact such laws for ye abolition of slavery as they may think proper, ye Convention cannot be charg'd with holding out any encouragement to it. . . .

1. RC, Autograph Collection of the Historical Society of Pennsylvania, PHi. Printed: *Pennsylvania Magazine of History and Biography*, XXXVIII (1914), 502-3. Robert Waln (1765-1836) and his cousin Richard (c. 1737-1809) were Philadelphia merchants and leaders of the Quaker community. This letter was addressed to Richard Waln at Walnford, his summer residence in Monmouth County, N.J.

**Moses Brown to James Pemberton
Providence, 17 October (excerpt)¹**

Thy favour of the 19th Ulo. came duly to hand and the Contents observ'd.—The subject of Slavery now calls my particular attention, and it is with Satisfaction I observe what thou mentions of the care and attention of friends & others in England to revive before Parliament the Iniquity & Impolacy of the slave Trade, but it is with feelings very reverse I observe in the Proceedings of the Federal Convention Two Articles which according to the Construction of friends here Millitate against Our Testimony in Support of Liberty, or against Slavery.—It is with Reluctance I say any thing against the doings of that respectable Body, but observing in the publick papers that friends in your City with others are United in Approving the Constitution,² and apprehending under Our Construction of it, friends will not be Clear without bearing Testimony against those parts which give Countenance to if not directly Incourage Slavery, I thought best to Write thee on the subject.—It appears Necessary that friends as far as possible be United on such parts as Effects their Testimony. I may therefore without further Appology for Touching on a subject which is so Intimately Connected with publick affairs, inform thee how we are Affected, that if we misconceive the Intention we may by being better Informed be released from Our present Uneasiness. I say Our, as there is no friend I have Convers'd with on the subject but what has been disagreeably affected. On my reading the Doings of the Convention, the 3d paragraph of the 2d Secn of the 4th Article Sensibly affected me with an apprehension that it was designd to Destroy the Present Assylum of the Massachusetts from being as a City of Refuge for the poor Blacks, many of whom had resorted there on Acct of their Constitution or Bill of rights declaring in the first Article “That all men are born free & Equal &c,”³ and there being no

Laws in that State to support slavery, the Negroes on Entering that state are as free as they are on Entering into Great Brittain⁴ and the southern people have not been able by Applycation to the Governour, Judges or other Authority to Recover those they had held as Slaves, who chose to Stay there. I have Considered it a great favour to that people, and an Opening in Wisdom in that State, for the Exaltation of Truth, Testimony over the Opressors of the African race; the Strikeing at which in that dark covert way it seems to be in Struck me with great Disapprobation and a fear that Light & Truth was not so prevalent in that Body as I had hoped for, indeed I thought it an Indignity, or a violation of Right, accompanyd with Insult on the great Principle of that first Article of the Massachusets [constitution] which had been rattified by the Declaration of Congress and other States, and Contrary to the Divine Law Express'd in Deuterony 23d, 15V 16 from which Grenville Sharp Drew an Argument correspondent with the Law of the Land,⁵ which I think conclusive on the point, to have an Article in the Constitution of these States so Repugnant to the Principles of Liberty, Truth & Righteousness Afflicted me, when those respectable Characters compares this Article under Our Construction with their own Declaration in the Preamble Expressive of the Design & End of the Confederacy Viz "to Establish Justice Secure the Blessings of Liberty to Ourselves & our posterity" they may Easily See the Contrariety if not inconsistency. But the Poor Devoted Africans seems in the 9th. Secn. of the 1st Article, tho the subjects of Unrighteous Revenue to be left out of the power of Congress to Consider them as Men & so Entitled to Liberty and their protection, nor yet are they yielded by the States to Congress as Commerce, but Left to the Averice or Oppression of the Subjects of any State, with the concurrance of the Convention, the Usage of Importing them being so far Acknowledged by them as a right, that the Constitution is not to Admit of being mended in that particular, by which Countenance or Establishment of Slavery for 21 years, the Incouragement of a Reformation is obstructed and the states may fall back from their present Light into great Darkness on this Subject, and the Recovery from this Gross Evil, for which this Land Mourns be long Obstructed.-We having no member from this State at the convention, I have not heard how this subject was Treated, whether it was slid over as a matter of Little Consequence or Insisted on by the southern members against the Wish and Inclination of the Middle & Northern Ones, perhaps full information how the subject was Treated and the Article are intended to be Understood might remove some of Our feelings on this Ocation. It seems to Exhibit a poor Example of Confidence in Congress the Southern states being not willing to Leave the Commerce in men under their

Controul and Regulation as well as Other Matters, had this been done and nothing more said about it, Nor no infringement on the Constitution of the Massachusets in this Respect I should have been very Easy to have Trusted Congress with it, and as it affects the Essential Rights of Men, those States or men that could not be prevailed on to have Confided in Congress, Congress nor the other States, methinks can have little reason to Confide in them,⁶ had the period of 21 years been fixed for Abolishing Slavery as some Writers your way seems to represent, it would have been doing something, but that will be then to do with probably Less Ability to Effect it, if it be not now held up to be a sore Evil as it now stands and if possible to be Amended. When I consider us in New England calld upon once a Quarter and, to answer Conscientiously that we bear a faithful Testimony against Slavery, I cannot see how we can approve those Articles. I was & am very Sorry we have this renew'd Tryal for to me it is a pretty Close one to be Considerd as Oppos'd to that Constitution which is intended as a Reformation of the Govnt of these states, as I am Sensible there is Need of it. I know not that I should Object to any Other part, 'tho I think I can see wherein Friends may be Affected, and it behoves us to Act Wisely in this matter, to bear Our Testimony faithfully wherein that is Affected, Trusting in the protection of Divine Providence more than in this or Any Change of Government, Remembering Stephen Crisps Saying "Take heed of that part in you which Trusts & Relies upon any Sort of the men of this World."⁷-Inclosd I send a late publication on the African Trade Written by a presbeterian minister S. H. in Newport,⁸ and the Testimony of the Baptists at a late assosiation.⁹ As I expect it will be agreeable to friends here to hear from friends with you, on this subject I am free thou should Shew this to Such Discreet friends for their Advice, as thou mayst think proper. . . .

1. RC, Pemberton Papers, PHi. Endorsed: "Recd: 5th: 11 mōn:-Answd. 16: 11 mō: P Lawton." Brown (1738-1836) was the youngest of four Providence brothers engaged in commerce. Upon the death of his first wife in 1773, he abandoned commerce, where he had engaged in the slave trade. He became a Quaker, freed his slaves, and was active in the efforts that led the Rhode Island legislature to enact anti-slave trade legislation in 1774 and 1784. Neither act was effective. Consequently, in June 1787 Brown sponsored a Quaker petition requesting the prohibition of the slave trade. In response, the Rhode Island legislature on 31 October adopted an act prohibiting Rhode Islanders from taking part in the slave trade; violators were subject to heavy fines.

2. Brown probably refers to an item first published in the *Pennsylvania Gazette*, 26 September, and reprinted in the *Providence Gazette*, 6 October, and in the *Providence United States Chronicle*, 11 October: "In the city and neighbourhood of Philadelphia, a petition to our Assembly to call a Convention in order to adopt this government, has been almost unanimously signed. The zeal of our citizens in favor of this excellent constitution has never been equalled, but by their zeal for liberty in the year 1776. Republicans, Constitutionalists, Friends, &c. have all united in signing this petition . . ." (CC:101). For other

references to Quaker support of the Constitution at this time, see David Redick to William Irvine, 24 September, and Francis Murray to John Nicholson, 1 November (RCS:Pa., 135, 207); James Madison to Thomas Jefferson, 24 October (CC:187); and "Centinel" III (CC:243).

3. Thorpe, III, 1889. During the 1780s the Massachusetts Supreme Court in the cases of Walker-Jennison and others interpreted this article as abolishing slavery. Consequently, slaves sued for their freedom; while others left their masters. In 1790 the federal census reported no slaves in Massachusetts.

4. In 1772 Lord Mansfield, Chief Justice of the King's Bench, ruled in the Somerset Case that the laws of England did not allow slavery. This decision established the axiom that "As soon as any slave sets his foot on English ground, he becomes free."

5. Granville Sharp, *The Law of Retribution; or, a Serious Warning to Great Britain and Her Colonies, Founded on Unquestionable Examples of God's Temporal Vengeance against Tyrants, Slave-holders, and Oppressors* (London, 1776), 21. Sharp quoted the two verses: "Thou shalt not deliver unto his Master the Servant which is escaped from his Master unto thee: he shall dwell with thee (even) among you, in that place which he shall choose, in one of thy gates where it liketh him best: thou shalt not oppress him." Except for the word "(even)," the italics are Sharp's.

Granville Sharp (1735-1813) of London was a philanthropist, political reformer, Biblical scholar, and an opponent of slavery and the slave trade. He was deeply involved in the Somerset Case (see note 4 above). Upon reading the slave-trade and fugitive-slave clauses of the Constitution, Sharp wrote Benjamin Franklin that he was "sincerely grieved to see the new Fæderal Constitution stained by the insertion of 2 most exceptionable Clauses . . . ; the one in direct opposition to a most honourable Article ordained by the first American Congress in 1774 to be *perpetually observed*; and the other in equal opposition to an *express command of the Almighty*-'not to deliver up to his Master the Servant that has escaped from his master' &c. Both Clauses, however, . . . are so clearly null and void by their *iniquity*, that it would be even a *crime* to regard them as Law!" (10 January 1788, Franklin Papers, PPAmP).

The "Article" of 1774 (mentioned above) prohibited the slave trade after 1 December 1774. It was the second article of "the Association" adopted by the First Continental Congress on 20 October 1774 (JCC, I, 75-80).

6. At this point Brown's retained draft reads: "and the first subject of the American Controvry [Controversy], Liberty, would still in My Opinion been a fit subject to have Divided upon Let those states that Still Insist on Enslaving their fellow Men be continued together with their principle of Slavery & the others Unite in Equal Liberty." Brown wrote in the margin of the draft: "this paragraph not Sent" (Almy and Brown Papers, RiHi).

7. Crisp (1628-1692), an English Quaker preacher, made this statement in *An Epistle to Friends Concerning the Present and Succeeding Times* (page 30) first printed in London in 1666 and reprinted in Philadelphia in 1780 (Evans 16754).

8. Samuel Hopkins' "Crito" was published in the *Providence Gazette* on 6 and 13 October. It described the slave trade as "a national sin" (6 October). Brown distributed fifty copies of "Crito" to members of the Rhode Island legislature which, on 31 October, debated and passed a law prohibiting the slave trade. In August Hopkins had tried to get "Crito" printed in the *Newport Herald*, but the printer feared that "Crito's" harsh criticism of Newport slave traders might offend his customers (Hopkins to Brown, 13 August, and Hopkins to Levi Hart, 27 November, in Edwards A. Park, ed., *The Works of Samuel Hopkins* . . . [3 vols., Boston, 1854], I, 122, 123-24).

9. The Warren Association of forty-five Baptist churches, most of them from Massachusetts, met in Chelmsford, Mass., on 11-12 September 1787. A statement on the slave

trade was included in the minutes: "Notwithstanding the great expense of blood and treasure during the late war, to ward off slavery from ourselves, we are informed, that in various parts of this country many have recurred to the horrid practice of sending our shipping to Africa, to bring from thence the natives and to sell them as slaves in the West-Indies: and as *man stealing* is a capital crime by the laws of God—see Deut. xxiv. 7–1. Tim. i 10—we, therefore, earnestly desire all our brethren to guard against giving the least countenance to that heaven-daring wickedness." The minutes were published as a pamphlet in Boston later in the year (Evans 20856). This statement was printed in the Providence *United States Chronicle* on 18 October, and reprinted in the Boston *American Herald* on 22 October.

Samuel Hopkins to Moses Brown
Newport, 22 October¹

I thank you for your two letters of the 9th and 15th Inst. and for the news papers you have sent me. I have received those which contain the last part of Crito.² Those containing the first part, which you say you ordered to be forwarded to me, have not yet come to hand. Perhaps they have not been sent. Mr. Foster has undertaken to get the transcript you sent me inserted in the *Herald*. I did not receive it soon enough to be inserted last week. I have been hoping for Ramsey's treatise,³ and am sorry to inform you, I have not yet received it. Hope it will come safe.

I am hurt by the doings of the convention respecting the *Slave Trade*.⁴ It is as you suppose. They have carefully secured the practice of it in these States for 20 years, and prevented any Asylum for slaves during that term, unless every individual State, should suppress this trade. They have taken it out of the hands of Congress. We cannot determine that the major part of the delegates were pleased with this. Some of the southern delegates no doubt, insisted upon it that the introduction of slaves should be secured, and obstinately refused to consent to any constitution, which did not secure it. The others therefore consented, rather than have no constitution, or one in which the delegates should not be unanimous. I fear this is an *Achan*,⁵ which will bring a curse, so that we cannot prosper. At the same time it appears to me that if this constitution be not adopted by the States, as it now stands, we shall have none, and nothing but anarchy and confusion can be expected.—I must leave it with the Supreme Ruler of the universe, who will do right, and knows what to do with these States, to answer his own infinitely wise purposes; and will vindicate the oppressed, and break the arm of the oppressor in his own way and time; and cause the wrath of man to praise Him.

It has been objected by some of the ministers against preferring a memorial to the General Assembly respecting the Slave trade; That the present ruling part in the Assembly, have appeared to be so destitute of all principles of justice, or regard to it; and have acted such an iniquitous part, that there is an impropriety in applying to *them* for justice;

especially for the ministers of the Gospel to do it, whom they hold in the highest contempt, and would embrace any opportunity to pour contempt upon them, which we should give them by laying such a petition before them. This prevents any thing of that kind being done at present.

1. RC, Moses Brown Papers, RiHi. Endorsed: "Answd the 23d, 11th Mo. 87." Hopkins used a diagonal line to represent the word "the". The editors have replaced the diagonals with the word. Since 1776 Hopkins (1721-1803), pastor of the First Congregational Church in Newport, had published several items against slavery. During the 1780s he worked with Brown to end the slave trade.

2. For "Crito," see Brown to Pemberton, 17 October, note 8, above.

3. Probably James Ramsay's *Essay on the Treatment and Conversion of African Slaves in the British Sugar Colonies* which was published in 1784. Ramsay (1733-1789), an Anglican minister in Kent County, England, had been a minister in the British West Indies.

4. In his "Crito" essay, Hopkins had made this statement about the slave trade and the Constitutional Convention: "Is it not to be wished that the Convention of these States, now sitting at Philadelphia, may take this matter into serious consideration, and, at least, keep it in view, while they are forming a system of government, that the supreme power of these States may be able effectually to interpose in this affair? If the above representation be in any measure agreeable to the truth, in vain are the wisest counsels, and the utmost exertions, to extricate ourselves from present evils, or avoid greater, unless the *slave trade*, and all the attendants of it, be condemned and suppressed. If we persist in thus transgressing the laws of Heaven, and obstinately refuse to do unto these our brethren, as we would all men should do unto us, we cannot prosper" (*Providence Gazette*, 13 October). "Crito" was written during the meeting of the Convention (see Brown to Pemberton, 17 October, note 8, above).

5. Achan's actions brought the wrath of God upon the people of Israel (Joshua 7).

Timothy Meanwell

Philadelphia Independent Gazetteer, 29 October¹

FRIEND OSWALD, As I sometimes (though not very often) read newspapers, and when I do read any, I generally give thine the preference; because if there is any dispute a-going, thee generally has both sides of the question. I have also read the new constitution which is offered to us, and I am very sorry to inform thee that I don't altogether like it.

I have searched it from beginning to ending, and I don't find a protection for the liberty of conscience, and that all men shall worship God agreeable to their own dictates. I should have liked the constitution much better if our friends of the Convention had inserted the 2d article of the Bill of Rights prefixed to the Constitution of Pennsylvania.— "That all men have a natural and unalienable right to worship Almighty God, according to the dictates of their own conscience and understanding: And that no man ought, or of right can be compelled to attend any religious worship, or erect or support any place of worship, or maintain any ministry, contrary to, or against his own free will and consent: Nor

can any man, who acknowledges the being of a God, be justly deprived or abridged of any civil right as a citizen, on account of his religious sentiments, or peculiar mode of religious worship: And that no authority can or ought to be vested in, or assumed by any power whatever, that shall in any case interfere with, or in any manner controul, the right of conscience in the free exercise of religious worship."²

I was informed that the trial by jury, which was guaranteed to us by the constitution of Pennsylvania, was in many instances abolished; this I did not believe when I heard it—I could not entertain an opinion that men so enlightened as those of the convention, among whose names I saw friend --- and friend ---, could be inattentive to the preservation of the trial by jury. I immediately took the constitution in my hand, and began to search it from end to end, and was in hopes of finding some clause like that in the Bill of Rights in the constitution of Pennsylvania,^(a) that would secure the trial by juries in all cases whatsoever, but I was disappointed.

I also heard a story going that the importation of slaves was allowed for twenty-one years, I thought now I certainly had in my power to catch them in telling untruths; I took up the constitution once more, and went to searching again, (for I was sure my friend ---, whose character I very much respect, would never attempt to encourage or connive at slavery, he who is famed throughout the world as the champeon of liberty,³ nor friend ---, who is one of the members of our society for the abolition of slavery,⁴ would never agree to so inhuman a traffic as that of carrying on a trade in the human species) but to my mortification, I found that this assertion was too true; for in the 9th section of the new constitution, this traffic is allowed: however, I thought this part would never do at any rate, and I was in hopes that some well disposed people would petition and have this article erased and abolished as a disgrace to the annals of America—But methinks I wont be too censorious but examine further, perhaps I shall find some method by which this clause may be evaded or repealed, but to my mortification, the further I went the worse I liked it—I had been told that there was a clause reserving a right to amend the constitution.—Ah thinks I, here is a hole in which the importation of slaves will be thrust out of the constitution; I pushed on in search of the clause, I found it, but what was my surprise when I found it, for in the 5th article, I find that there are two clauses which cannot in the new constitution be repealed till after the year 1808, and perhaps never will after that time, one of which, is that of allowing the importation of slaves for 21 years—the further I went on parusing this constitution the worse I liked it: there was another of which I was informed and which sat very heavy upon my stomach, for thee knows friend Oswald, we Quakers are

not flighty men. I was told there was to be a standing army raised, and also that every man who was draughted in the militia, must do his duty as a soldier, for he cannot by this new constitution send a man in his stead, neither will any fine be received as an equivalent for his services—Thinks I this wont do for those of our profession, who are principled against bearing arms; I had rather it had been like the 8th section of the Bill of Rights to the constitution of Pennsylvania.—“That every member of society hath a right to be protected in the enjoyment of life, liberty and property, and therefore is bound to contribute his proportion towards the expence of that protection, and yield his personal service, when necessary, or an equivalent thereto: But no part of a man’s property can be justly taken from him, or applied to public uses, without his own consent, or that of his legal representatives: Nor can any man who is conscientiously scrupulous of bearing arms, be justly compelled thereto, if he will pay such equivalent: Nor are the people bound by any laws, but such as they have in like manner assented to, for their common good.”⁵

I am afraid, friend Oswald, that I have trespassed too much upon thy patience; upon the whole, I have I think, now sufficiently considered the constitution to inform thee that I dont like it, and there is so many things in it incompatible with the known principles of Friends, that I think they will deviate much from their profession if they have any thing to do with it, or give any aid or assistance in establishing of it, for if they do assist in establishing of it, remember, they have lent their aid in abolishing of the liberty of conscience; in encouraging and establishing the importation of slaves for 21 years—they also give their assent to the raising and keeping up of a standing army, all of which are totally incompatible with the principles of Friends, and I hope they will steer clear of having any hand in the establishing of these several facts. I hope they will adhere to their good old rulers of neither setting up nor pulling down governments, that is to say, of neither setting up their new government, nor of pulling down the good old constitution of Pennsylvania, which has secured and protected them in so many civil and religious privileges. I have made free to write thus much to thee at present, which thou art at liberty to communicate, if thou thinkest proper. The time is short wherein the liberty of the press may be preserved. Before it is too late and becomes shackled and restrained, I beg leave to communicate my sentiments, though perhaps at this time it may in some measure be dangerous, but the constitution of Pennsylvania protects me, I have a right to enjoy that protection, which is secured to me by the 12th section of the bill of rights.—“That the people have a right to freedom of speech,

and of writing and publishing their sentiments; therefore the freedom of the press ought not to be restrained.”⁶

If any thing else occurs to me, I shall make free to write to thee upon the subject; and as I always hold myself open to conviction, if I have not formed a right idea of the matter, or if I have taken it up wrong, I will thank any friend to set me right. I am with the greatest esteem and respect, Thy assured and well-wishing friend.

(a) “That in controversies respecting property, and in suits between man and man, the parties have a right to trial by jury, which ought to be held sacred.”⁷

Spank Town, 10th month 20th day, 1787.

1. On Saturday, 27 October, the *Gazetteer* announced: “*Timothy Meanwell* is unavoidably postponed till our next.”

2. Thorpe, V, 3082.

3. Probably Benjamin Franklin, the president of the Pennsylvania Society for Promoting the Abolition of Slavery.

4. Perhaps Robert Morris, who was among the members of the society in 1789.

5. Thorpe, V, 3083.

6. *Ibid.*

7. *Ibid.*

Plain Truth to Timothy Meanwell Philadelphia Independent Gazetteer, 30 October¹

FRIEND TIMOTHY, Thou hast abused thy name and the sect to which thou pretendest to belong, by telling things that are false; hence I conclude that thou dost not mean well.

Thou sayest that “the importation of slaves is allowed by the new federal constitution for twenty-one years,” and thence thou hast falsely insinuated as if friend --- and friend --- had given their sanction to this unchristian practice. This is the same mode of arguing, that deistical and profane writers adopt to oppose the dictates of Jesus Christ; they take their own construction of some particular phrase, and then applying it to a foreign subject, they think they prove, that our Redeemer was inconsistent with himself; But an enlightened Christian need only look into the book, and the cheat appears evident: Thus it is with thy uncan- did assertion. Let us look into the constitution—“The migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by the congress prior to the year 1808.”—Would not every candid reader conclude from this, that in twenty one year such importations *may be prohibited*; and would he not bless God, that in this new country, we should, in less than 150 years, possess a degree of liberality and humanity, which has been unknown

during so many centuries, and which is yet unattained in so many parts of the globe.

What alteration does the new constitution make in the present system adopted by many of the states relative to slavery? NONE contrary to that system; but in favor of it, has taken a power of checking this abominable importation, by laying duties on it. The constitution says, by implication, to such states,—“well done ye good and faithful servants, continue your endeavors to compleat the glorious work—our assistance is not very far distant; for, ere the child now born, shall arrive to an age of manhood, the supreme power of the United States shall abolish slavery altogether, and in the mean time they will oppose it as much as they can.”

I fear, Timothy, that thy disturbed spirit has led thee to make these remarks, before thou hadst read the letter written by the President of the Convention.

“The Constitution (saith he) 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.”² Now is it not the duty of every candid objector to consider this before he makes his remarks? The Convention in fact tells every opposer, “Friend we have considered thy objection, but points of small magnitude must give way to general good; if thy objection had been insisted on, as thou insistest, we should have made no constitution at all, for we never could have agreed.”

As to the idea that the new constitution is disagreeable to our society, who ever saw friends prefer anarchy, confusion, and bloodshed to the blessings of good government? and what else but anarchy, confusion, and bloodshed can be expected from a refusal of this constitution, and the consequent dissolution of the union?

I wish thy reformation, and am thy friend.

1. “Plain Truth” was the author of several major Federalist essays. For his 10 November reply to “An Officer of the Late Continental Army,” in which he refers to his debate with “Timothy Meanwell,” see RCS:Pa., 216–23. For “An Officer,” 6 November, see CC:231 and RCS:Pa., 210–16.

2. See the President of the Convention to the President of Congress, 17 September, CC:76.

Timothy Meanwell

Philadelphia Independent Gazetteer, 3 November

Friend Oswald, When I wrote to thee last, it was with a wish that if I had imbibed a wrong idea of our proposed new constitution that some friend or other would endeavour to set me right: I have seen the publi-

cation of a person under the *pirated* signature of *Plain Truth*; I call it *pirated*, because the signature is affixed to that which is not *true*, in which performance he pretends to remove some of the objections which had taken hold of my mind relative to the new constitution; instead of answering or removing any of those objections, he has the more firmly fixed them with me, he has not removed a single one, neither has he touched upon any part of my letter, only that which alludes to the importation of slaves, and instead of his removing of this objection, he has confirmed it, and has inserted a part of the new constitution, which he says will prove *my* assertion, to be false; the constitution runs thus, "The migration or importation of persons, as any of the states now existing shall think proper to admit, *shall not be prohibited by the Congress*, prior to the year 1808;" mark these words, "*they shall not be prohibited, &c.*" this confirms the very objection which I had to the clause allowing of the importation of slaves; he goes on further, and says, "Would not every candid reader conclude from this, that in one and twenty years, such importations *may be prohibited, &c.*" here he does not entertain the least shadow of a prohibition taking place before 21 years, and after that time he says, a prohibition *may take place*; if he meant in the least degree to have removed my objections, he ought not to have relied upon *may-be's*; such flimsey arguments will not in the least tend to conviction with me, I must have more solid reasoning than such pitiful *may-be's* as these: he will I trust, excuse me if I am a little severe in my reply, after being treated so cavalierly by him. He goes on further and says, "What alteration does the present constitution make in the present system adopted by many of the states relative to slavery;" he draws the answer himself, which is not the answer of *Plain Truth*, and says "NONE contrary to that system:" this is false, because, if the new constitution is adopted, it will in a great measure contravene the act of assembly of Pennsylvania for the gradual abolition of slavery, which act expressly forbids the further importation of slaves;¹ the new constitution says they *shall not be prohibited* for 21 years, and goes no further, and does not say that a prohibition shall take place after that period: this is left to be determined by the *great Congress* hereafter to be chosen, who may or may not abolish this inhuman traffic after 21 years, as they in their great goodness and unbounded wisdom may think proper—This new constitution by implication says thus—Ill done ye bad and faithless servants, continue your endeavours to complete the inglorious work which you have begun, our assistance is not far distant, for ere the child now born shall arrive to the age of manhood, the supreme power of the United States, after having established slavery for 21 years, they will entirely and irrevocably fix it

altogether, and in the mean time the new constitution will encourage it all that it can.

I fear thou hast stole the signature of *Plain Truth*, that thy disturbed spirit has led thee to make these remarks, before thou hast examined the new constitution.

I observe by a part of thy performance, that thou either are tolerably well versed in the scriptures, or at least thou would have the public to entertain that opinion of thee. There is some matters in the scriptures which I sometimes have heard mentioned, and am at a loss to find answers for; I have no doubt but that from thy acquaintance with that old-fashioned and too much neglected book, thou canst answer them; I will give thee one of them, if thou canst answer thou wilt do me a kindness, *Pray who was David's grandfather's nurse?* this answer I expect thou wilt give as the result of thy own information, and not seek it from any divine; I shall then perhaps, entertain a better opinion of thy knowledge in the scriptures than I do at present, some other queries may be offered to thee as they occur.

I must, before I conclude, beg leave to inform thee, that I had a very great suspicion that thou wast not what thou wouldst have the world to believe thou art, that is, that thou art not that *venerable old dame* designated by the title of *Plain Truth*, but that thou hadst *pirated* her name, to affix to thy publication, having had some considerable acquaintance with this *venerable lady*. I made it my business to wait upon *her*, in hopes that if I had imbibed a wrong notion of the new constitution *she* would set me right. After making some enquiry for *her*, (for thou must understand, *she* is so often attacked and abused *she* is obliged frequently to remove *her* quarters) I found *her* inhabiting of a very neat small house up a little ally out of doors tied to a stump; after passing of the usual compliments, I told *her* that I had seen a publication under *her* signature in the Independent Gazetteer, of the 30th October, which I did not altogether understand, and I waited upon *her* for *her* explanation of the matter. *She* immediately denied having wrote or published any thing. I answered that I had the paper in my pocket and would shew it to *her*; *she* took it and perused it, and told me that it was none of *her* performance, and that *she* totally disclaimed every iota contained in that publication as *her* performance; the *venerable lady* seemed very much enraged and out of humour, thinking that any person should thus so much traduce *her* as to publish *untruths* under *her* signature, and told me *she* wished *she* could detect the impostor, and requested that I would have the advertisement herewith sent,^(a) (which *she* handed me) immediately published that the impostor might be detected. I told *her* I would take special care to have it done. *She* told me *she* took it very kind in my waiting on *her* on this

occasion, and requested immediate information if any more impositions should appear in future, when after the usual salutations we parted.

All the other objections which I have made to the new constitution I presume are acceded to, as none of them have been contradicted.

I fear friend Oswald I have trespassed too much upon thy good nature, but having been informed that thou wast very obliging, made me trouble thee thus long, which I hope thou wilt excuse; and should the same person who has signed himself *Plain Truth* appear again unless he adduces better arguments than his last, I shall not take up the time of thy readers, as too much of thy valuable paper will be lost by answering of him, I choose not to be throwing of *pearls before swine*, but only hope that he may not enjoy the first fruits of this new constitution, especially to have that part retorted on him that relates to slavery, by his being sold as a slave to the Dey of Algiers or to Botany Bay, that he may not there know the blessings of liberty, and be debarred from the enjoyment of it, perhaps he may then repent that he had not paid a more minute attention to this new constitution, and wish that he had given the establishment of it all the opposition in his power, however if he has such contracted notions of liberty, I leave him to *Satan to buffet with*. I am, With the greatest respect, Thy assured Friend. TIMOTHY MEANWELL.
Spank Town, October 31st, 1787.

(a) Stop Thief! Stop Thief!

Whereas a certain person under the signature of *Plain Truth* published in the Independent Gazetteer of the 30th October, has made free to pirate my name and palm it upon the public attached to a performance, which I totally disavow and hereby disclaim every iota of. I also hereby offer a reward adequate to the trouble to any person who shall detect the impostor and deliver him to me.

Given under my hand and seal at my palace at a little house up an alley out of doors tied to a stump, this 31st day of October, 1787. PLAIN TRUTH.²

1. This act, passed in March 1780, required that all slaves in the state be registered before 1 November 1780, and that none but slaves so registered "shall at any time hereafter be deemed, adjudged or holden, within the territories of this commonwealth, as slaves or servants for life, but as free men and free women, and except the domestic slaves attending upon delegates in Congress from the other American states, foreign ministers and consuls, and persons passing through or sojourning in this state, and not becoming resident therein. . . ."

2. On 6 November the *Gazetteer* printed the following statement by "HINT": "Some of your readers are of opinion that the author who dates from a 'little house up an alley out

of doors tied to a stump,' had better have retained his piece for the use of the said *little house*, where it would certainly have answered a very *necessary* purpose."

Plain Truth

Philadelphia Independent Gazetteer, 7 November¹

FRIEND OSWALD, Thy correspondent, *Timothy Meanwell*, is a weak man. I would in charity hope, that the very unworthy motive which appears to actuate him, is rather the consequence of imbecility in his brain than corruptness in his heart: and I am the more inclined to think of him in this compassionate manner, as I find his invention fails, even his scurrility, which is a feeble imitation of some of his silly predecessors. How often alas! has the public been nauseated by the paltry witticisms against my signature!

I shall not trouble thee with any more personal observations on this poor man; but it may not be amiss to shew how falsely and how weakly he has quoted that part of the new constitution which is supposed to relate to the slave trade. The constitution saith, that, this importation "shall not be prohibited by the Congress prior to the year 1808."—This is thus represented by TIMOTHY; "mark these words (saith he) *shall not be prohibited*," and thence he draws this wise conclusion, that, the new government (notwithstanding this importation is already prohibited in at least 10 of the states) hath "*established slavery for 21 years*." Suppose this federal compact had said that *Congress* should not prohibit theft; would that abolish the state laws and establish theft in Pennsylvania?—If friend TIMOTHY were in that case to reason in such a manner, and to act accordingly, I fear he would discover his error, under the discipline of the wheel-barrow.²

As to the grand question, friend Oswald, it is not necessary to say much about it, for so persuaded am I of the good sense of the people throughout these states, that I will venture to predict the success of the new plan.

All the good citizens of America (a few demagogues excepted) agree in these plain and self evident positions.

1. We wanted a reform, and could not long continue as a nation without one.

2. Whatever the reform might be, it was not in the nature of things possible to have any that would uniformly suit the various situations, habits and interests, of all the states.

3. Mutual concession, or separation then became an unavoidable alternative.

4. In forming a Convention there could not be found in America a set of men, of more integrity, of more political knowledge whose attach-

ment to their country had been more severely tried; and perhaps it will not be disputed when I say, a more august body never convened any where.

5. America would not have been more faithfully represented if all the people had met.

6. This Convention debated 4 months, before it produced the form of government now offered; and a man must be weak indeed to suppose, that every objection that is now made, was not there considered, supported, opposed, and either given up for wise reasons, or refuted.

7. Government being a human institution can never be perfect.

8. The new constitution is as perfect as it can be, since the wisdom and virtue of America were concerted into one focus to produce it.

9. To shew the integrity of the Convention, the result of their deliberations is referred for confirmation to the public at large.

It is therefore incumbent on the people of this continent to ask themselves the question.—Shall we rise into one respectable nation, or sink into thirteen factions?

The reasoning part is over; decision is now the object; and that the happiness of this country is involved in that decision, I defy all the wittlings in America to prove inconsistent with PLAIN TRUTH.

1. This item, excluding the first two paragraphs, was reprinted twelve times by 5 February 1788: Vt. (1), N.H. (1), Mass. (4), Conn. (4), Pa. (1), Va. (1).

2. The wheelbarrow was a reference to an aspect of the penal system of Pennsylvania. Prisoners were released from jail to work on public improvements and some of them used wheelbarrows.

**William Rotch, Sr. to Moses Brown
Nantucket, 8 November (excerpt)¹**

. . . thou queries how friends can be active in establishing the new form of Government, which so much favours Slavery; alas in this point I must refer thee to some advocate for it, as to my own part my heart has been often pained since the publication of the doings of the Convention; and much disappointed I am as I had entertain'd some hope that so many wise men, would have form'd some System of Government, founded on equity & justice, that thereby it might have acquir'd some strength and energy, and that it might be on such a basis that we as a Society might lend our aid in establishing it so far as it tended to peace and morality; but we may say in truth that the wisdom of man (as man) can or shall not work the Righteousness of God; and whatever high encomiums are given to it (the Constitution) it is evident to me it is founded on *Slavery* and that is on *Blood*, because I understand, some of the Southern members utterly refused doing any thing unless this

horid part was admitted, which occasions me to say its very foundation was on Slavery & Blood, as that I suppose was the corner stone; there are many parts which meets my approbation, as it so fully nearly approaches a mix'd Monarchy, wch. I think a good exchange for an Ideal Republican; but the valuable parts are all marred to a great degree in my view, and often brings me into a deep consideration of the consequence that must eventually attend; can we expect additional judgments will not visit our land when the people have given their own late declarations the lie in so bare faced a manner, some complaint has been made, that no Bill of Rights was prefixed to their doings; but how was it possible that it could be done, for what are those Rights, except the very Rights in part, and the most valuable part which they have declared they would not protect; and I much fear it will be taken for an implicit encouragement, to pursue the trade, though I sincerely wish the Northern States may manifest a better principle of justice than the united Wisdom of the Continent has exampl'd them in, & as thou observes it breaks up this Assylum of liberty (the Massachusets) thus my dear Friend thou may see I can by no means alleviate thy mind in this respect, except in being united with thee as a fellow sufferer in this great cause of oppression, interceding when a little strength is afforded that the Father of Mercies may in his own time open the hearts of the people and incline them to true justice and judgment, and grant that the bonds of the oppressed may be loosed, and indeed notwithstanding, I fear that for a time, an encouragement may be the consequence of that article; yet as the work is on the wheels I fully believe it is the determination of Heaven that Slavery shall be abolished, though it may be through some sore judgments; I am much affected at this time with this Subject from a recent Instance, though it may be view'd by some as of the mildest kind, yet the depravity of the heart that is guilty of the fact sinks deep in my mind; Jno Slocum of Newport² has lately been here and demanded Cato as his Servant, Cato left Slocum and made this place his Assylum for liberty, was hir'd by my Son S Rodman³ with whom he had lived near two years, and on considering, that if the new Constitution should be adopted (which was hardly doubted) he would then be fully within his power, where he had nothing to expect, but perpetual Slavery, in this circumstance he was advis'd to compromise the matter with Slocum, which he did & agreed to serve him a year & then to be free, a manumission on these conditions was obtain'd, but Slocums proposal was to lodge it in the hands of one of his own Children, but this base proposal intimation was rejected by Catoes friends, & S Rodman has it in possession; Cato is a very honest orderly man set out yesterday on his new years Slavery, he is I believe near forty years old, and altho it is but

for a year, yet the darkness of that heart that requires it, gives me so bad an opinion of this man, that I think in this enlightend age, he ought not to lay claim to any great degree of Christianity. -I doubt I shall tire thee, I will therefore come to thy proposition, my heart is warm'd toward those poor blacks and I feel sometimes willing to spend and be Spent if I could contribute to their enlargement; I intend for Bedford if well in a week or ten days, when its not improbable I may meet thee some-where, but perhaps it may be in Newport, as I hardly feel clear of J Slocum without either writing or seeing him, the later I would prefer if could have thy company. . . .

1. RC, Moses Brown School, Austin Collection, Brown University. Rotch (1734-1828), a Quaker, was a wealthy Nantucket, Mass., whaling merchant.

2. Probably John Slocum (1727-1791), a Newport merchant, whose household included three blacks in 1774, two in 1782, and one in 1790.

3. Samuel Rodman (1753-1835), a Quaker, was Rotch's business partner and son-in-law.

**Moses Brown to James Thornton, Sr.
Providence, 13 November (excerpt)¹**

. . . I shall . . . touch on An Other [subject] where we seem to be happily United; that is the Stopping of the African Slave Trade the Effect of Our Applycation to the Assembly of this state having been Satisfactory I Inclose thee a Copy of Our Address & the Act Obtaind thereupon which I had struck of[f] for my friend,² doubtless thou hast heard by the friend from your way of the Applycation to the Massachusetts allso. On my getting home from Our Assembly the 1st. of this mo. I sent off a Copy of the Act with a Letter to their Committee,³ no friend on the Committee being ready to accompany me or I should have gone down to Boston again on the subject, I am in hopes of hearing dayly of their doing something to the like purpose, I may now mention my desire you may be favourd to bring about an Act similar in Pennsylvania⁴ Seeing there is now no hopes from Congress, the present not being Competent and the new if it Takes place have Bard that Door of hope for 21 years & I fear from that Concession much Longer, indeed their doings on this subject aspecialy the 3d paragraph of the 2d sectn. of the 4th Article appears Calculated on purpose 'tho, Plauseably Coverd, to distroy the present Effect of the 1st Article of the Massachusetts Bill of Rights by which all Negroes when in that Jurisdiction are Declared free, as well and on the same ground as in England and no Law there can support a Claimmer in Carrying One Out of that Assylim or City of Refuge which it has been to many, many Others have agreed with their masters to Serve a Certain time and then take manumissions, by means of this, their

Retreat from the Injuries of Slavery, but alas instead of Extending Humanity and good Will to that People the Convention has, I think very Unhapily Wounded the Cause of Liberty & the rights of Men, the Justice of Such an Assylim is supported by the Divine Law Deut 23. 15-16 which Grenvill Sharp⁵ has Adopted in an Argument proving the Right of protection & of Protectors to slaves who Escape from their masters, which I could Wish had been laid before that Assembly as it appears to me Conclusive on the point, tho I must Confess till I saw it I had some doubts whether it was best for friends to protect them 'tho this doubt arose from a fear of Blame and so hurting Our Testimony, not from the Right they had to Take their Liberty when Ever they Could, I mentioend this matter in a Lr sometime since to James Pemberton⁶ & Queryd how We could Unite in the present federal system, & answer Our Query "Whether we bare a faithfull Testimony against slavery" Once a Quarter I Wish for the Cause of Humanity, Justice, Liberty & Religion that this Usurpation Over the Massachusetts Constitution [The remainder of the letter is missing.]

1. RC(?) (incomplete), Quaker Collection, Haverford College, Haverford, Pa. This letter has no addressee, but internal evidence indicates that the letter was addressed to James Thornton. For Thornton's reply, see his letter of 17 December, below. Thornton (1727-1794), of Byberry, Pa., had emigrated to America from England in 1750. He was a farmer and a highly esteemed Quaker minister.

2. See Brown to Pemberton, 17 October, note 1, above.

3. Brown's letter was addressed to the Committee on the Revision of the Laws of the Massachusetts legislature, which in June 1787 had been directed to report a bill upon "the subject matter of negroes in this Commonwealth at large." This action had been prompted by a Quaker petition against the slave trade. (For the prohibition of the slave trade by Massachusetts in March 1788, see Jeremy Belknap to Benjamin Rush, 12 February 1788, note 1, below.)

4. On 8 January 1788 Benjamin Rush informed Jeremy Belknap that the Pennsylvania Society for Promoting the Abolition of Slavery "are about to address our legislature in favor of a law to prohibit the fitting out, owning, or insuring vessels in Pennsylvania that are to be employed directly or indirectly in the African slave trade. It is expected this law will meet with no opposition" (Butterfield, *Rush*, I, 448). The Society drew up a petition asking that the legislature pass an act supplementing the 1780 act for the gradual abolition of slavery. The petition was circulated and signed by about 2,000 people. In March 1788 the Pennsylvania legislature prohibited the building and fitting out of vessels in order to engage in the slave trade. Commenting upon this act, Rush wrote that "The commerce in African slaves has breathed its last in Pennsylvania. I shall send you a copy of our late law respecting that trade as soon as it is published. I am encouraged by the success that has finally attended the exertions of the friends of universal freedom and justice to go on in my romantic schemes (as they have often been called) of serving my countrymen" (to Belknap, 6 May, *ibid.*, 460).

5. See Brown to Pemberton, 17 October, note 5, above.

6. See Brown to Pemberton, 17 October, above.

James Pemberton to Moses Brown
Philadelphia, 16 November (excerpts)¹

I lately recd. thy acceptable letter of 17th ulto.² by which I perceive that thy mind has been exercised in like manner with many others of thy brethren in these parts, on account of the present stirrings among the people in their political pursuits, and that the members of our religious Society may be preserved in a conduct consistent with our profession, to promote which, some caution was verbally given in our late yearly meeting, it being the united sense of the Solid & Judicious among friends, that our union, and safety depended on our quietude, & forbearance to intermix with the people in their political consultations, and debates on the present occasion;³ the like cautionary advice has been repeated in our quarterly meeting, and if the Representatives from the other quarters, and other concerned friends who attended the yearly meeting perform their duty, care will be taken to revive, and diffuse the same in the quarterly meetings now coming on, and transmit it to the monthly meetings, as also to their members individually as occasion offers, the weighty part of friends being much united in Judgment on the subject, but we are numerous, and there are many among us weak & unstable who stand in need of suitable counsel on occasions of this kind, as on others, in which our testimony is concerned; that there is ground to apprehend, that divers were precipitately drawn in to sign petitions to the Assembly towards the close of their session in the ninth month last to promote a speedy Election of Delegates for the State Convention,⁴ which proceeded from inattention, and I believe many have been Since convinced of the impropriety of their conduct in that matter, from whence the people who are active in these concerns may have taken occasion to represent the Judgment of the Society being favorable to their cause, but an Election of Delegates for the proposed State Convention has since been held in this City,⁵ and other parts, and I do not find, that our members have intermeddled any way, except a few inexperienced young men, and others who are resolute to follow their own wills without due consideration, and run with the multitude at all hazards—

Altho' it is most consistent & safe for us to avoid an active part in the business now in agitation, yet we can but observe those things which are exceptionable in the plan of Government recommended by the late General Convention, and that there are several parts which may affect Civil & religious liberty, at the same time Charity leads me to conclude

that they have done the best they could under the circumstances attending their deliberations, and Some of the Delegates appologize for its imperfections particularly in respect to that part which appears to give countenance to the Slave trade for twenty one years, tho' the construction they put on those Sections is, that they only limit the power of the Fœderal Legislature, and are not intended to restrain the Legislatures of the respective States from enacting such laws, or Supplements to laws already in force, as they shall judge expedient for the prohibition of the trade, or the abolition of Slavery within their own jurisdiction, and some of our Lawyers have given their opinion to the same purport; There was a desire prevailed in the Convention to subvert the enormous traffic, which the Representatives from So Carolina, & the Adjacent States being aware of, vigorously opposed, and is Said to be the Sole cause of this very inconsistent part of their System professed to be founded on liberal principles, and is given out among other reasons by the Virginia Delegates who declined Signing, for their dissent;⁶ However should the plan be adopted, which seems not to be improbable; it will be requisite for the Advocates for the Enslaved Negroes to consider, whether consistent with their laudable desire for their emancipation, and the Suppression of the iniquitous Commerce to Africa for Slaves, they ought not firmly to remonstrate against those very exceptionable parts of a Constitution said to be intended to hold up a Standard of impartial Liberty, and I hope friends here, and others will not be inattentive to a Subject of such weighty importance. . . .

The Essay on the Slave trade thou Sent me I have delivered to one of our news-printers for republication, and observe it is inserted in a paper of this day;⁷ The Act lately passed by your Assembly to prevent the Slave Trade does them credit. but I fear it is not sufficiently explicit to prevent evasion; There is an Intention of applying to the Assembly of this Government for a Similar law, instances having lately occurred to make it expedient. . . .

1. RC, Moses Brown Papers, RiHi.

2. See Brown to Pemberton, 17 October, above.

3. For a similar concern, see James Thornton to Moses Brown, 17 December, below.

4. See Brown to Pemberton, 17 October, note 2, above. For a full account of the circulation of the petitions and the calling of the state convention, see RCS:Pa., 54-126, 134-35, 137-38.

5. For the election which was held on 6 November, see RCS:Pa., 224-65.

6. George Mason opposed the slave trade in the Convention and listed its protection as one of his objections to the Constitution (Farrand, II, 370; CC:138, 276).

7. On 16 and 23 November the *Pennsylvania Mercury* reprinted "Crito," which had been printed originally in the *Providence Gazette* on 6 and 13 October. For "Crito," see Brown to Pemberton, 17 October, note 8, and Hopkins to Brown, 22 October, note 4, above.

Edmund Prior to Moses Brown
New York, 1 December (excerpt)¹

Thy favour of the 18th Ulto. I duly recd., and should have answered it Long since, but a Member of the Late Convention, who I had some acquaintance with, being Absent, I was unable to obtain that information I wished for, and altho he is yet away I shall nevertheless endeavour to reply to thine,² The Great oversight of the Convention in respect to securing universal Liberty & Impartial Justice is generally attributed to the influence of the Southern Members, who had they duly ad[v]erted to the Publick declarations made in the days of their fear and distress, a very different determination in respect to Slavery would have taken place; With us it is however agreed that the State Legislatures will not be restrained from enacting such Laws for the prevention of the Odious traffick, as they may Judge expedient, for themselves, and I wish it may be the Case, hoping the advocates for the poor afflicted & oppress'd Africans will not be discouraged from pursuing their Laudable purpose—Its nevertheless allowed that should the Constitution be adopted the State of Massachusetts will no Longer be an Assylum to the Negroes,³ unless they Should, except that Article, in their adoption Notwithstanding our Testimony is so opposite to the sentiments of that body yet cannot see, how we shall move in the business, farther than a Pat[i]ent gradual Perseverance, for the Work is evidently on its way, and I have no doubt will in time be effected, hope our Pat[i]ence may keep Pace with the Success & we Steadily press forward—at times I have been possessed with a fear Least from the Cause being so good and the unrighteousness & Cruelty of Slavery, we should be induced to attempt to drive, & thereby be in danger of Shifting our ground,—This fear has which would then become an uncertain foundation,

Thine of the 19th with its inclosures was very acceptable, I had no expectation of any State going so far yet, its an excellent example for the others and I hope they will, adopt or enact Similar Laws—It has been published here⁴ & in Jersey & have no Doubt but in Philada. also. . . .

1. RC, Moses Brown Papers, RiHi. The letter was addressed to “Moses Brown/near Providence/Care of John Hadwin/New Port.” Prior (1755–1841) was a Quaker and a merchant in New York City. He had been clerk of the New York Yearly Meeting from 1784 to 1786.

2. Perhaps a reference to Rufus King, who had not yet returned from his home in Newburyport, Mass. Prior had mentioned King in a letter to James Pemberton on 18 March 1787: “Rufus King suggested to James Parsons in some conversation he lately had with him, that as the Convention proposed to be held in your city [Philadelphia] for Foederal purposes, was also to take into consideration the Commerce of the States in which the Slave Trade would be a material Subject, whether some hints thrown before that body on that business might not be useful” (Pemberton Papers, PHi). Like Prior, James Parsons was a Quaker and a merchant in New York City.

3. See Brown to Pemberton, 17 October, notes 3 and 4, above.

4. The Rhode Island act to prevent the slave trade, passed on 31 October 1787, was reprinted in the New York *Daily Advertiser*, 23 November, and the *New York Journal*, 26 November. Both newspapers also published the Quaker petition of June 1787 which had prompted the act. In February 1788 the New York legislature passed an act that tightened an act of 1785 on the slave trade.

**James Thornton, Sr. to Moses Brown
Byberry, Philadelphia County, 17 December (excerpts)¹**

Thine dated the 13th. 11 mo. 1787, I received which was very acceptable. . . . your Christian Endeavour, with your Legislature for the Abolition of Slavery and traffick in the African trade being Succesfull as the Law they made thereupon Evinces, is truly Salutary and wish might take place here, many friends here view the Transactions of the Convention respecting Leaveing the Trade open to Africa in the Same point of view as thee does, and have Occasionally mention'd to Leading men in State affairs, as one of the Grand reasons of our Objections to the propo'd Constitution, but as a religious Society we can have Nothing to do with Seting up nor pulling down Governments but Live Peaceably under all Governments Set over us in Godliness and honesty: yet ought to Shew Publickly our disapprobation of Every Oppresive and unrighteous Act-done by men in power. . . .²

1. RC, Moses Brown Papers, RiHi. This letter is a reply to Brown's letter of 13 November, above.

2. For a similar concern, see James Pemberton to Moses Brown, 16 November, above. During the first six months of debate over the Constitution, the Quaker position on the Constitution was interpreted differently by Federalists and Antifederalists. Federalists maintained that Quakers generally supported the Constitution but withheld public endorsement because of their Society's prohibition against involvement in politics. (See "Undeniable Facts," *Philadelphia Independent Gazetteer*, 15 January 1788 and "A True Whig," *Pennsylvania Mercury*, 15 January (Mfm:Pa. 333, 334); and Jeremy Belknap to Benjamin Rush, 12 February, note 5, below. For earlier Federalist comments, see Moses Brown to James Pemberton, 17 October, note 2, above.

Antifederalists, however, asserted that Quakers opposed the Constitution, claiming that their neutrality was really an indication of their opposition to ratification. See "A New-Yorker," *Independent Gazetteer*, 31 December (Mfm:Pa. 298); *ibid.*, 11 January 1788 (Mfm:Pa. 324) and 7 March; and "Investigator," *Philadelphia Freeman's Journal*, 19 March (RCS:Pa., 721-22).

**Samuel Hopkins to Levi Hart
Newport, 29 January 1788 (excerpt)¹**

I received yours of the 12th inst. Yesterday. I thank you for your exertions with regard to the *slave trade*. I should have been glad to be informed, whether what was reported to mr. Brown be true, viz. that

they are going into this trade at Middletown and Norwich. I hear they threatened to carry it on here and at Providence yet; but question whether they will do it, as they will expose themselves so much by it.²

The new constitution, you observe, guarantees this trade for twenty years. I fear, if it be adopted, this will prove an Achan in our camp. How does it appear in the sight of Heaven, and of all good men, well informed, that *these States*, who have been fighting for liberty, and consider themselves as the highest and most noble example of zeal for it, cannot agree in any political constitution, unless it indulge and authorize them to enslave their fellow men!—I think if this constitution be not adopted, as it is, without any alteration, we shall have none, and shall be in a state of anarchy, and probably of civil war: Therefore, I wish to have it adopted: but still, as I said, *I fear*—And perhaps civil war will not be avoided, if it be adopted. Ah! These unclean spirits, like frogs—They, like the furies of the poets, are spreading discord, and exciting men to contention and war, wherever they go: And they can spoil the best constitution that can be formed. When Congress shall be formed on the new plan, these frogs will be there; for they go forth to *the kings of the earth* in the first place. They will turn the members of that august body into devils, so far as they are permitted to influence them. Have they not already got possession of most of the men who will or can be chosen and appointed to a place in that assembly? I suppose that even good christians, are not out of the reach of influence from these *frogs*. “Blessed is he that watcheth, and keepeth his garments. . . .”³

1. RC, Misc. Mss., S. Hopkins folder, NHi. Hopkins used a diagonal line to represent the word “the”. The editors have replaced these diagonals with the word. Hart (1738–1808) was pastor of the Second or North Congregational parish in Preston, Conn. In 1775 he published an attack on the slave trade entitled *Liberty Described and Recommended . . .* (Evans 14100). Hart refused election to the Connecticut Convention even though he supported the Constitution.

On 27 November 1787 Hopkins sent Hart a number of newspaper articles attacking the slave trade and asked that they be reprinted in Connecticut. He praised the Rhode Island legislature for prohibiting the slave trade in October 1787, but asserted that the act would not be effective unless Massachusetts and Connecticut adopted similar acts (Edwards A. Park, ed., *The Works of Samuel Hopkins . . .* [3 vols., Boston, 1854], I, 122–23). On 9 September 1788 New England Quakers, meeting in Providence, R.I., approved a petition to the Connecticut legislature calling for the prohibition of the slave trade (*New Haven Gazette*, 23 October 1788). At its October 1788 session the Connecticut legislature prohibited the slave trade, but did not prevent the exportation of slaves from Connecticut. In 1792 the legislature prohibited such exportation. For Massachusetts’ action in March 1788, see Jeremy Belknap to Benjamin Rush, 12 February, note 1, below.

2. For a list of Rhode Island vessels suspected of engaging in the slave trade from 1787 to 1807, see Jay Coughtry, *The Notorious Triangle: Rhode Island and the African Slave Trade, 1700–1807* (Philadelphia, 1981), 263–85.

3. Revelation 16:13-15, "And I saw three unclean spirits like frogs *come* out of the mouth of the dragon, and out of the mouth of the beast, and out of the mouth of the false prophet. For they are the spirits of devils, working miracles, *which* go forth unto the kings of the earth and of the whole world, to gather them to the battle of that great day of God Almighty. Behold, I come as a thief. Blessed *is* he that watcheth, and keepeth his garments, lest he walk naked, and they see his shame."

Jeremy Belknap to Benjamin Rush
Boston, 12 February (excerpt)¹

. . . It gives me great Pleasure to hear of the intended effort of your Society to obtain a Law prohibiting the African Trade.² Rhode-Island, bad as they are in some respects, have set us a good Example in *this* Instance, they have by Law prohibited under a severe Penalty the buying and selling slaves in foreign Parts & to render Conviction easy the Evidence of one Seaman belonging to the Vessel is sufficient for a Condemnation³

In our late Convention something was said by way of objection to the Constitution because "it *established*" (as the speakers said) "the importation of Slaves for 20 years" Several of the antifederal Party urged this, but none more violently than a certain Quaker Preacher who went so far as to predict that the same measure should be meted to us-i.e that we should lose our Liberties as the Africans lost theirs-He was answered very ably by Mr Parsons who construed that article into a dawn of hope for the final abolition of the horrid Traffick & spoke of it as a great Point gained of the southern states.⁴ However the Quaker remained inflexible & as I know him to be a Man of influence in the Circle of *Friends* at the Eastward I suppose he will prejudice the minds of a great Part of that fraternity against the Constitution. The reason of my mentioning this to you is to desire you to inform me whether among the Quakers of Pennslva: any such Construction is put on that article wch respects the Migration or Importation of Foreigners⁵-I think there must be some Men of Sense among them who cannot be so prejudiced, but I wish to be made certain of it & I think I shall be able to make a good use of the Information. . . .

1. RC, Rush Papers, PPL. The name of the addressee does not appear in the letter, but internal evidence indicates it was Benjamin Rush. Belknap (1744-1798), a Congregational minister, was pastor of Long Lane, later the Federal Street, now the Arlington Street Church, in Boston. A longtime opponent of the slave trade, Belknap's antipathy to it is illustrated in a 29 September 1787 letter to Rush: "Can you believe that the State of Massachusetts whose first principle is that 'all men are by nature free & equal' still permits her Citizens to carry on the detestable traffic in 'Slaves & Souls of Men'?-When shall we be wise! When shall we be consistent! Why should it not be felony to steal Men as much as to steal money & plate? Or why should it not be deemed equally criminal to steal abroad as at home?" (Rush Papers, PPL).

In February 1788 Massachusetts public opinion was outraged by the kidnapping of several blacks. Led by Belknap, the Boston Association of Ministers petitioned the legislature for a law levying heavy fines against kidnappers and making it criminal to engage in the slave trade. Blacks also petitioned the legislature. In March the legislature passed an act prohibiting citizens and others residing in Massachusetts from engaging in the slave trade and levying heavy fines against violators. The act also permitted friends of kidnapped blacks to bring actions for damages against the kidnappers.

2. For the actions of the Pennsylvania Society for Promoting the Abolition of Slavery, see Moses Brown to James Thornton, Sr., 13 November, note 4, above.

3. For the Rhode Island act of October 1787, see Brown to Pemberton, 17 October, note 1, above.

4. On 25 January James Neal of Kittery, Maine, told the Convention that "His profession . . . obliged him to bear witness against any thing that should favour the making merchandize of the bodies of men; and unless his objection was removed, he could not put his hand to the Constitution" (*Massachusetts Centinel*, 16 February). Neal voted against ratification. Parsons' remarks have not been preserved. However, the *Massachusetts Centinel*, 16 February, reported that, in reply to Neal and others, Federalists said "that the step taken in this article, towards the abolition of slavery, was one of the beauties of the Constitution. They observed, that in the Confederation there was no provision whatever for its ever being abolished; but this Constitution provides, that Congress may, after 20 years, totally annihilate the slave trade; and that, as all the States, except two, have passed laws to this effect, it might reasonably be expected, that it would then be done—in the interim, all the States were at liberty to prohibit it."

5. On 28 February Rush responded that "They [the Quakers] consider very wisely that the abolition of slavery in our country must be gradual in order to be effectual, and that the Section of the constitution which will put it in the power of Congress twenty years hence to restrain it altogether, was a great point obtained from the Southern States" (Mfm:Pa. 461).

APPENDIX IV

This table illustrates the circulation of all items in Volume 2 of *Commentaries on the Constitution* that were published in newspapers or as broadsides or pamphlets. The total figure for each item includes the original publication and all reprints, including the reprints of significant excerpts. An asterisk (*) indicates publication in the Philadelphia *American Museum*, which had a national circulation. A plus sign (+) indicates publication as a broadside, pamphlet, or book.

This table is included in *Commentaries* as an aid in comparing reprint data. Headnotes and footnotes of documents often contain additional information about circulation and should also be consulted.

	New Hampshire	Massachusetts	Rhode Island	Connecticut	New York	New Jersey	Pennsylvania	Delaware	Maryland	Virginia	North Carolina	South Carolina	Georgia	Vermont	Total
238. Albany Gazette	2	1		1	3				1				1		9
239. Brutus, Junior					1		1								2
240. Cato IV					3										3
241. Cincinnatus II			1		1		1								3
242. Federal Farmer ⁺		1 ⁺			3 ⁺		1 ^(*)								5
243. Centinel III		1	1		2 ⁺		3								7
244. Citizen of Philadelphia ⁺					1		1 ⁺								2
247. Uncus		1	1						1						3
251. Mass. Centinel (both)		1	1		1	2	1	3	1						10
(1st paragraph)		1	1		1	3	1	3	1						11
(2nd paragraph)		1	1		1	2	2	3	1						11
252. Publius															
The Federalist 5		1			7 ⁺		3 [*]			1					12
253. Boston Gazette		1		2		1	2								6
254. Landholder II		1		4											5
257. Publius															
The Federalist 6					7 ⁺		2 [*]			1					10
258. Pa. Gazette	1	1	1	2	1		1					2	1		10
259. Receipt for an Antifederalist Essay	1	2		1	1		2 [*]					1			8
260. Va. Independent Chronicle		1			1		1		1	1					5
261. Countryman I				1	1										2
263. News-Mongers' Song	2	4	1	2	3		2 [*]		1				1		16
264. Brutus III		1			1		2								4
265. Cincinnatus III					1		1								2

	New Hampshire	Massachusetts	Rhode Island	Connecticut	New York	New Jersey	Pennsylvania	Delaware	Maryland	Virginia	North Carolina	South Carolina	Georgia	Vermont	Total
268. An American The Crisis		4	1	1	2	1	2*			1					12
269. Publius The Federalist 7					6 ⁺		1								7
270A. Pittsburgh Gazette	1	4	2	1	2		5*		2	1		1			19
272. Landholder III	2	2		4											8
274. Publius The Federalist 8				1	7 ⁺		1								9
276. Mason's Objections (both)	2	7	1	4	3	1	4*		1	5 ⁺		2			30
276A. Mass. Centinel	2	6	1	4	2	1	3		1			2			22
276B. Va. Journal		1			1		1*			5 ⁺					8
276D. Mass. Centinel	1	2	1	1			1								6
277. Publius The Federalist 9		1			7 ⁺		1								9
278. Philadelphia Freeman's Journal		2			2		1		1						6
279A. Pa. Gazette					1		4*		1			1			7
279B. Philadelphia Freeman's Journal		1	1				1		1	1					5
280. Pa. Gazette		2	1		1	1	1								6
283A. New Haven Gazette	2	3		4	3		1					2			15
283B. N.Y. Daily Advertiser	2	1			3										6
283C. New Haven Gazette	1	1	1	2	4		3					1			13
284. Countryman II		1		1	1	1	1								5
285. Publius The Federalist 10					7 ⁺		1								8
286. Cato V					3										3
287. Cincinnatus IV					1		1								2
289. James Wilson's Speech (all)	4	10	3	4	5	2	10 ⁺								40
Pamphlet version ⁺	2	5	1	2	1		2 ⁺								13
Newspaper summaries	2	5	2	2	4	2	8					1		1	27
290A. Philadelphia Independent Gazetteer		5	1	3	2		1		1		1				14
290B. Philadelphia Independent Gazetteer	2	10	2	5	7		4		1						31
291. Publius The Federalist 11					5 ⁺		1								6
292. An Old Whig VI				1	1		1								3
295. Landholder IV		3	1	5			1		1						11
297. Publius The Federalist 12					5 ⁺		1								6
299. Va. Independent Chronicle							1			1					2

	New Hampshire	Massachusetts	Rhode Island	Connecticut	New York	New Jersey	Pennsylvania	Delaware	Maryland	Virginia	North Carolina	South Carolina	Georgia	Vermont	Total
300. Publius															
The Federalist 13		1			5 ⁺		1								7
301. An Old Whig VII		1			1		2								4
302. Philadelphiensis II		1					2								3
303. Federal Republican ⁺							1 ⁺								1
305. Countryman III				1	1										2
306. Brutus IV		1			1		1								3
307. Cincinnatus V					1		1								2
310. Publius															
The Federalist 14		1			4 ⁺		1								6
311. Centinel IV					2 ⁺		1								3
312. Publius															
The Federalist 15		1			5 ⁺		1								7
316. Landholder V		3	1	5			1		1						11
317. Publius															
The Federalist 16					5 ⁺		1			1					7
318. Centinel V					2 ⁺		2 ⁺								4
320. Philadelphiensis III		1	1				2								4
321. Publius															
The Federalist 17					6 ⁺		1								7
322. Countryman IV				1	1										2
323. "Z"	1	3			2										6
324. Cincinnatus VI					1		1								2
325. Lee to Randolph	1	3	1		2		6*		1	3 ⁺		3			20
326. A True Friend ⁺		2					1			2 ⁺					5
329. Mass. Gazette	3	1			2	1	2		2	1					12
330. Publius															
The Federalist 18					5 ⁺		1								6
333. Publius															
The Federalist 19					5 ⁺		1								6
335. Landholder VI	2	5	2	5	4		2		1	1		1			23
339. John Sullivan's Speech (both)	7	11	3	7	8	1	9*		3	1					50
339A. N.H. Spy	5	5	2	2	6	1	5		2						28
339B. N.H. Mercury	2	6	1	5	2		4*		1	1					22
340. Publius															
The Federalist 20					5 ⁺										5
341. Publius															
The Federalist 21					5 ⁺										5
342. Philadelphiensis IV							2			1					3
343. Brutus V		2			1										3
344. Cato VI					2										2
345. Alfred		1			2		1								4
347. Publius															
The Federalist 22					4 ⁺										4
351. Landholder VII		1	4						1						6

	New Hampshire	Massachusetts	Rhode Island	Connecticut	New York	New Jersey	Pennsylvania	Delaware	Maryland	Virginia	North Carolina	South Carolina	Georgia	Vermont	Total
APPENDIX I: SQUIBS															
Cumberland Gazette															
9 November		2			1								1		4
N.Y. Journal															
15 November					4		2		1					1	8
Newport Herald															
15 November	2	1	1	4	2		4						1	1	16
Benjamin Franklin															
American Herald															
19 November		1													1
Mass. Gazette															
20 November	2	1			1		3					1			8
Mass. Centinel															
21 November	1	1			2		3*		1	1		1	1		11
Mass. Gazette															
20 November	1	1					2		1						5
Northern Centinel															
20 November (both)	1	1		1	2		1					1	1		8
(Newport Letter)	1	1	1	1	2		1					1	1		9
(Providence Letter)	1	4		2	2		1					1	1		12
Mass. Centinel															
21 November		1													1
Pa. Gazette															
21 November (all)	1	2	1	3	2		1		1						11
(1st paragraph)	2	3	2	6	4		1		2				2		22
(2nd paragraph)	4	10	3	7	8	1	3		3	1		2	2	1	45
(3rd paragraph)	3	4	1	4	2		1		1						16
Pa. Herald															
21 November (both)		1		3	3	1	1								9
(1st paragraph)	1	1		3	3	1	2		1	1					13
(2nd paragraph)		1		4	3	1	1								10
Pa. Packet															
30 November	2	7	1	4			3		2	2				1	22
Columbian Herald															
3 December	2	8	1	3	3				1			1		1	20
N.J. Journal															
5 December	1	5	1	4		2	3		1			1	1		19
Conn. Courant															
10 December	1	2	2	2					1						8
(2nd paragraph only)	2	3	2	2	3	1	4		2	2					21
Independent Gazetteer															
14 December	1	3		2		1									7
APPENDIX III: QUAKERS															
Timothy Meanwell															
29 October							1								1
Plain Truth															
30 October							1								1
Timothy Meanwell															
3 November							1								1
Plain Truth															
7 November	1	4		4			2		1				1		13

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